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and referred to the committee on:

Government Organization

HOUSE OF REPRESENTATIVES

Betty Messing

Chief Clerk of the House

By Lena Gammes

FILED JAN 27 1989
#B. No. 715

A BILL TO BE ENTITLED

AN ACT

relating to the composition of the board and to the continuation
and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.11, Education Code, is amended by
adding Subsection (d) to read as follows:

(d) The corporation is subject to the open meetings law,
Chapter 271, Acts of the 60th Legislature, Regular Session, 1967
(Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to
read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject
to the Texas Sunset Act (Chapter 325, Government Code). Unless
continued in existence as provided by that Act, the corporation is
abolished and this chapter expires September 1, 2001 [~~1989~~].

SECTION 3. Section 57.13, Education Code, is amended to read
as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The
corporation is governed by a board of 10 [~~11~~] directors appointed
in accordance with this section.

(b) The governor, with the advice and consent of the senate,
shall appoint nine [~~eight~~] members to the board. Five members must
have knowledge of or experience in finance, including management of
funds or business operations. One member must be a student who is

1 enrolled at a postsecondary educational institution for the number
2 of credit hours required by the institution to be classified as a
3 full-time student of the institution. Three members must be
4 [~~persons--working--in-commercial-finance,--three-must-be~~] members of
5 the faculty or administration of an eligible postsecondary
6 educational institution, as defined by Section 57.46 of this code[
7 ~~and--two--must-be-members-of-the-general-public-who-do-not-derive-a~~
8 ~~majority-of--their--income--from--higher--education--or--commercial~~
9 ~~finance~~].

10 (c) Appointments to the board shall be made without regard
11 to the race, color, handicap, sex, religion, age, or national
12 origin of the appointees. [~~The-chairman-of-the-Coordinating-Board,~~
13 ~~Texas--College-and-University-System,--shall-appoint-a-member-of-the~~
14 ~~coordinating-board-to-the-corporation-board-of-directors.~~

15 [~~(d)--The-commissioner-of-higher-education--shall--appoint--a~~
16 ~~student--enrolled--in-a-public-or-private-postsecondary-educational~~
17 ~~institution-to-the--board.---Before--making--the--appointment,--the~~
18 ~~commissioner---of---higher--education--shall--consult--with--higher~~
19 ~~education-student-organizations-from-all-regions-of-the-state.]~~

20 (d) [~~(e)~~] The comptroller of public accounts or the
21 comptroller's designee shall serve as an ex officio voting [a]
22 member of the board.

23 (e) [~~(f)~~] Each member of the board must be a Texas resident.

24 SECTION 4. Chapter 57, Education Code, is amended by adding
25 Section 57.131 to read as follows:

26 Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP,
27 AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

1 a Texas trade association of institutions that originate or hold
2 student loans or a Texas trade association in the field of higher
3 education may not be a member of the board or a corporation
4 employee who is exempt from the corporation's position
5 classification schedule.

6 (b) A person who is the spouse of an officer, manager, or
7 paid consultant of a Texas trade association described by
8 Subsection (a) of this section may not be a member of the board and
9 may not be a corporation employee who is exempt from the
10 corporation's position classification schedule.

11 (c) A person may not serve as a member of the board or act
12 as the general counsel to the board if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the corporation.

16 (d) A person may not be one of the members of the board
17 required by Section 57.13(b) to have knowledge of or experience in
18 finance if the person is a member of the board of directors or an
19 employee of an eligible lender that participates in the guaranteed
20 student loan program.

21 (e) For the purposes of this section, a Texas trade
22 association is a nonprofit, cooperative, and voluntarily joined
23 association of business or professional competitors in this state
24 designed to assist its members and its industry or profession in
25 dealing with mutual business or professional problems and in
26 promoting their common interest.

27 SECTION 5. Chapter 57, Education Code, is amended by adding

1 Section 57.141 to read as follows:

2 Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground
3 for removal from the board if a member:

4 (1) does not have at the time of appointment the
5 qualifications required by Section 57.13(b) of this code;

6 (2) does not maintain during service on the board the
7 qualifications required by Section 57.13(b) of this code;

8 (3) violates a prohibition established by Section
9 57.131 of this code;

10 (4) cannot discharge the member's duties for a
11 substantial part of the term for which the member is appointed
12 because of illness or disability; or

13 (5) is absent from more than half of the regularly
14 scheduled board meetings that the member is eligible to attend
15 during a calendar year unless the absence is excused by majority
16 vote of the board.

17 (b) The validity of an action of the board is not affected
18 by the fact that it was taken when a ground for removal of a board
19 member existed.

20 (c) If the executive director has knowledge that a potential
21 ground for removal exists, the executive director shall notify the
22 chairman of the board of the ground. The chairman shall then
23 notify the governor that a potential ground for removal exists.

24 SECTION 6. Section 57.18, Education Code, is amended to read
25 as follows:

26 Sec. 57.18. MEETINGS. (a) The board may meet as often as
27 necessary, but shall meet at least twice a year.

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees.

16 (d) The executive director or the executive director's
17 designee shall develop an intra-agency career ladder program. The
18 program shall require intra-agency postings of all nonentry level
19 positions concurrently with any public posting.

20 (e) The executive director or the executive director's
21 designee shall develop a system of annual performance evaluations.
22 All merit pay for corporation employees must be based on the system
23 established under this subsection.

24 (f) The executive director or the executive director's
25 designee shall prepare and maintain a written policy statement to
26 assure implementation of a program of equal employment opportunity
27 under which all personnel transactions are made without regard to

1 race, color, handicap, sex, religion, age, or national origin. The
2 policy statement must include:

3 (1) personnel policies, including policies relating to
4 recruitment, evaluation, selection, appointment, training, and
5 promotion of personnel;

6 (2) a comprehensive analysis of the corporation's work
7 force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of
9 significant underuse in the corporation's work force of all persons
10 for whom federal or state guidelines encourage a more equitable
11 balance; and

12 (4) reasonable methods to appropriately address those
13 areas of significant underuse.

14 (g) A policy statement prepared under Subsection (f) of this
15 section must cover an annual period, be updated at least annually,
16 and be filed with the governor's office.

17 (h) The governor's office shall deliver a biennial report to
18 the legislature based on the information received under Subsection
19 (g) of this section. The report may be made separately or as part
20 of other biennial reports made to the legislature.

21 (i) The board shall adopt policies that clearly define the
22 respective responsibilities of the governing body of the
23 corporation and the staff of the corporation.

24 SECTION 8. Section 57.20, Education Code, is amended to read
25 as follows:

26 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
27 [EMPLOYEES]. (a) The board shall prepare information of public

1 interest describing the functions of the board and corporation and
2 the procedures by which complaints are filed with and resolved by
3 the board. The corporation shall make the information available to
4 the public and appropriate state agencies.

5 (b) The board shall establish methods by which consumers and
6 service recipients are notified of the name, mailing address, and
7 telephone number of the corporation for the purpose of directing
8 complaints to the board or corporation.

9 (c) The corporation shall keep an information file about
10 each complaint filed with the corporation that the corporation has
11 authority to resolve.

12 (d) If a written complaint is filed with the corporation
13 that the corporation has authority to resolve, the corporation, at
14 least quarterly and until final disposition of the complaint, shall
15 notify the parties to the complaint of the status of the complaint
16 unless the notice would jeopardize an undercover investigation.
17 [The-board-may-appoint-employees-and-may-fix-their-compensation-and
18 prescribe-their-duties.]

19 SECTION 9. Chapter 57, Education Code, is amended by adding
20 Section 57.24 to read as follows:

21 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
22 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
23 may participate in a revenue-generating activity that is consistent
24 with the corporation's purpose if the board determines that the
25 revenue from the activity:

26 (1) is sufficient to cover the costs of the activity;
27 and

1 (2) will contribute to a reduction in the insurance
2 premium paid by students under Section 57.43 of this code.

3 (b) If, under Subsection (a) of this section, the board
4 authorizes the corporation to perform additional services, the
5 corporation may not require postsecondary educational institutions
6 or students to use those services unless required by state or
7 federal law.

8 (c) The corporation may not guarantee loans for other
9 states.

10 SECTION 10. Section 57.41(c), Education Code, is amended to
11 read as follows:

12 (c) The corporation shall, to the extent funds are
13 available, make loans to eligible students, as a lender of last
14 resort, under the following conditions:

15 (1) the borrower certifies and provides evidence to
16 the corporation that he/she has made an application to at least two
17 qualified lenders and was unable to obtain a guaranteed student
18 loan from a commercial lender and is not aware of any eligible
19 lender in this state that is willing to make a guaranteed student
20 loan;

21 (2) the borrower also certifies to the corporation
22 that he/she was unable to obtain a guaranteed student loan from the
23 Texas Higher Education Coordinating Board[~~---Texas--College-and~~
24 University-System];

25 (3) the corporation certifies that it is not aware of
26 any eligible lender in this state that is willing to make a
27 guaranteed student loan; and

1 (4) the corporation must, to the extent a market is
2 available, sell loans made as last resort loans within a reasonable
3 period of time of the date of loan origination. This provision
4 will not apply to any loans that cannot be sold at par.

5 The corporation shall maintain a separate file showing the name and
6 address of the student receiving such a loan and the name and
7 address of the involved educational institution.

8 SECTION 11. Section 57.43, Education Code, is amended to
9 read as follows:

10 Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may
11 impose and collect insurance premiums from student borrowers in an
12 amount not to exceed the maximum allowable under the Higher
13 Education Act of 1965, as amended.

14 (b) If the corporation imposes an insurance premium under
15 this section, the corporation must impose the lowest insurance
16 premium practicable that:

17 (1) complies with federal requirements; and

18 (2) does not jeopardize the corporation's financial
19 viability.

20 SECTION 12. Section 57.45(a), Education Code, is amended to
21 read as follows:

22 (a) In order to qualify as an eligible lender under this
23 subchapter, the lender must:

24 (1) be an eligible lender for purposes of the Higher
25 Education Act of 1965, as amended; and

26 (2) [~~have--its--principal--place-of-business-in-Texas;~~
27 and

1 [~~3~~] enter into an agreement with the corporation for
2 participation in the program.

3 SECTION 13. Chapter 57, Education Code, is amended by adding
4 Section 57.461 to read as follows:

5 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
6 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

7 (1) an advisory committee that is composed of 15
8 members who represent the postsecondary educational institutions
9 that participate in the corporation's guaranteed student loan
10 program; and

11 (2) an advisory committee that is composed of 12
12 members including:

13 (A) one member who represents the Texas Higher
14 Education Coordinating Board; and

15 (B) 11 members who represent lenders that
16 participate in the corporation's guaranteed student loan program.

17 (b) The board shall appoint advisory committee members on
18 the recommendation of the executive director.

19 (c) The board may establish other advisory committees as the
20 board considers necessary.

21 (d) The board shall:

22 (1) specify each advisory committee's purpose and
23 duties; and

24 (2) require each committee to report to the board in a
25 manner specified by the board relating to each committee's
26 activities and work results.

27 SECTION 14. Section 57.47(a), Education Code, is amended to

1 read as follows:

2 (a) If a student borrower defaults on a loan and the
3 corporation is required to honor the guarantee, the corporation or
4 the Texas Higher Education Coordinating Board[~~7-Texas-College-and~~
5 ~~University-System~~7] shall bring suit against the defaulting party
6 as soon as practicable.

7 SECTION 15. Chapter 57, Education Code, is amended by adding
8 Section 57.481 to read as follows:

9 Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In
10 this section, "loan default rate" means the rate at which student
11 borrowers default on loans guaranteed by the corporation as
12 determined by the corporation in compliance with federal
13 guidelines.

14 (b) The corporation shall take an active role in
15 coordinating, facilitating, and providing technical assistance on
16 guaranteed student loan default prevention and reduction
17 initiatives and programs in the state and shall work with the
18 appropriate state agencies and other entities, including eligible
19 postsecondary educational institutions, eligible lenders,
20 servicers, secondary markets, the Texas Higher Education
21 Coordinating Board, the Central Education Agency, and state
22 professional and occupational licensing agencies.

23 (c) The corporation shall maintain a system of communication
24 among the appropriate state agencies and entities to reduce loan
25 default claims.

26 (d) The corporation shall:

27 (1) calculate the loan default rates for the

1 postsecondary educational institutions that participate in the
2 corporation's guaranteed student loan program;

3 (2) semiannually notify the postsecondary educational
4 institutions of those loan default rates;

5 (3) notify the Central Education Agency of the loan
6 default rates of the proprietary schools regulated by that agency
7 under the Texas Proprietary School Act (Chapter 32 of this code);
8 and

9 (4) require each proprietary school, as a condition of
10 eligibility to participate in the corporation's guaranteed student
11 loan program, to collect and submit data to the Central Education
12 Agency in a form determined by the corporation relating to the rate
13 at which students enrolled at the school complete their course of
14 study.

15 (e) The Central Education Agency shall review and analyze
16 the data submitted by the proprietary schools under Subdivision
17 (4), Subsection (d), of this section and report to the corporation
18 regarding how the loan default rate of a proprietary school
19 compares to the rate at which students enrolled at the school
20 complete their course of study.

21 (f) The corporation after consultation with eligible
22 institutions and lenders and consistent with federal regulations
23 and policies shall establish a loan default rate for a
24 postsecondary educational institution or lender that, if exceeded,
25 requires the corporation to intervene as provided by Subsection (g)
26 of this section or permits the corporation to intervene as provided
27 by Subsection (h) of this section.

1 (g) If a postsecondary educational institution's loan
2 default rate exceeds the rate established for the institution under
3 Subsection (f) of this section, the corporation shall conduct
4 program evaluations for the institution or provide technical
5 assistance to the institution, or both.

6 (h) If a postsecondary educational institution's or lender's
7 loan default rate exceeds the rate established under Subsection (f)
8 of this section, the corporation may require the institution or
9 lender, as a condition of eligibility to participate in the
10 corporation's guaranteed student loan program, to take one or more
11 actions, including to require:

12 (1) educational institutions to set tuition and fees
13 refund policies for students who do not complete their course of
14 study that:

15 (A) are more beneficial to students; and

16 (B) encourage repayment of student loans;

17 (2) lenders to disburse loans to students in more
18 installments than required by federal guidelines, to the extent
19 permitted by federal law and federal guidelines; or

20 (3) lenders to notify in clear language the affected
21 postsecondary educational institutions and student borrowers if
22 student loans are assigned or transferred to another eligible
23 lender.

24 (i) Before the corporation may require a postsecondary
25 educational institution or lender to take any action under
26 Subsection (h) of this section, the proposed action must be
27 reviewed by the postsecondary educational institution or lender

1 advisory committee established under Section 57.461 of this code,
2 as appropriate.

3 (j) The corporation shall notify the Central Education
4 Agency regarding any requirements the corporation places on a
5 proprietary school under this section.

6 SECTION 16. Chapter 57, Education Code, is amended by adding
7 Section 57.491 to read as follows:

8 Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF
9 PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

10 (1) "License" means a certificate or similar form of
11 permission issued or renewed by a licensing agency and required by
12 law to engage in a profession or occupation.

13 (2) "Licensee" means a person to whom a licensing
14 agency issues a license.

15 (3) "Licensing agency" means a board, commission,
16 department, or other agency in the executive branch of state
17 government that issues or renews a license or the State Bar of
18 Texas.

19 (b) The corporation shall identify the licensing agencies
20 subject to this section and provide written notice to those
21 agencies of the requirements prescribed by this section. Only
22 those licensing agencies that the corporation identifies and that
23 receive such notice are required to carry out this section.

24 (c) The corporation periodically shall:

25 (1) identify the persons who are in default on loans
26 guaranteed by the corporation; and

27 (2) provide a written list of the names of those

1 persons to the licensing agencies.

2 (d) A person who is in default on a loan may enter an
3 agreement with the corporation for repayment of a defaulted loan as
4 required under this section. The corporation shall provide the
5 person with a certificate certifying that the person has entered a
6 repayment agreement on the defaulted loan.

7 (e) A licensing agency may not renew the license of a
8 licensee whose name is on the list provided by the corporation
9 under Subsection (c) of this section unless:

10 (1) the renewal is the first renewal following the
11 agency's receipt of the list including the licensee's name among
12 those in default; or

13 (2) the licensee presents to the agency a certificate
14 issued by the corporation certifying that:

15 (A) the licensee has entered a repayment
16 agreement on the defaulted loan; or

17 (B) the licensee is not in default on a loan
18 guaranteed by the corporation.

19 (f) A licensing agency may issue an initial license to a
20 person whose name is on the list provided by the corporation under
21 Subsection (c) of this section and who meets all other
22 qualifications for licensure, but may not renew the license unless
23 the person presents to the agency a certificate issued by the
24 corporation certifying that:

25 (1) the licensee has entered a repayment agreement on
26 the defaulted loan; or

27 (2) the licensee is not in default on a loan

1 guaranteed by the corporation.

2 (g) A licensing agency may not renew the license of a
3 licensee who defaults on a repayment agreement unless the person
4 presents to the agency a certificate issued by the corporation
5 certifying that:

6 (1) the licensee has entered another repayment
7 agreement on the defaulted loan; or

8 (2) the licensee is not in default on a loan
9 guaranteed by the corporation or on a repayment agreement.

10 (h) A licensing agency shall provide written notice of the
11 nonrenewal policies established under Subsections (e), (f), and (g)
12 of this section to each applicant for a license or for renewal of a
13 license. The corporation shall provide written notice of those
14 same policies on each loan application form provided by the
15 corporation and on each promissory note signed by a borrower.
16 Failure to provide the notice required by this subsection does not
17 affect the default status of a borrower or the prohibitions on
18 renewal of a license held by a person in default.

19 (i) A licensing agency shall provide an opportunity for a
20 hearing to a licensee before the agency takes action concerning the
21 nonrenewal of a license under this section.

22 (j) Each licensing agency shall adopt any rules necessary to
23 carry out the licensing agency's duties under this section.

24 (k) The board shall establish procedures to carry out the
25 corporation's duties under this section.

26 SECTION 17. Section 57.50, Education Code, is amended to
27 read as follows:

1 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
2 an eligible lender may discriminate against an eligible student in
3 making a loan or loan guarantee on the basis of race, age,
4 religion, [~~income~~] or sex.

5 SECTION 18. Section 57.76, Education Code, is amended to
6 read as follows:

7 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
8 corporation shall have a fiscal audit performed by a certified
9 public accountant.

10 **(b) A copy of the annual audit shall be submitted to the**
11 **state auditor for review. The state auditor may:**

12 **(1) examine any working papers from the annual audit;**
13 **and**

14 **(2) conduct a separate audit if, after reviewing the**
15 **independent audit, the state auditor considers a separate audit**
16 **necessary.**

17 SECTION 19. Chapter 57, Education Code, is amended by adding
18 Section 57.761 to read as follows:

19 **Sec. 57.761. INTERNAL AUDITOR. (a) The executive director**
20 **shall appoint an internal auditor for the corporation. The**
21 **appointment of an internal auditor must be approved by the board.**

22 **(b) The internal auditor shall report to the executive**
23 **director. The board may require the internal auditor to submit**
24 **directly to the board certain reports specified by the board.**

25 **(c) The board's executive committee, a subcommittee of the**
26 **board, shall meet with the internal auditor on a regular basis.**

27 **(d) The internal auditor shall examine the corporation's**

1 system of internal controls and its system of identifying fixed and
2 variable costs, including administrative costs.

3 SECTION 20. Sections 57.21 and 57.51, Education Code, are
4 repealed.

5 SECTION 21. (a) A member of the board of the Texas
6 Guaranteed Student Loan Corporation appointed by the governor or by
7 the commissioner of higher education and serving on the board on
8 the effective date of this Act serves until the member vacates the
9 office or until the member's term expires. As vacancies occur or
10 board members' terms expire, the governor shall appoint new members
11 to achieve the membership scheme prescribed by Section 57.13(b),
12 Education Code, as amended by this Act. To fill the new membership
13 position created on the board by this Act's amendment of Section
14 57.13(b), the governor shall appoint the full-time student member
15 of the board for a term expiring January 31, 1993. The position on
16 the board filled through appointment by the chairman of the Texas
17 Higher Education Coordinating Board is abolished on the effective
18 date of this Act.

19 (b) The first policy statement required to be filed under
20 Section 57.19, Education Code, as amended by this Act, must be
21 filed before November 1, 1989.

22 (c) A state agency that issues professional or occupational
23 licenses may not:

24 (1) take action concerning the nonrenewal of a license
25 before September 1, 1991, under Section 57.491, Education Code, as
26 added by this Act; or

27 (2) issue notice as provided by Section 57.491(h),

1 Education Code, as added by this Act, before September 1, 1990, to
2 persons who apply for a license.

3 SECTION 22. This Act takes effect September 1, 1989.

4 SECTION 23. The importance of this legislation and the
5 crowded condition of the calendars in both houses create an
6 emergency and an imperative public necessity that the
7 constitutional rule requiring bills to be read on three several
8 days in each house be suspended, and this rule is hereby suspended.

HOUSE COMMITTEE REPORT

89 APR 26 PM 1:40
HOUSE OF REPRESENTATIVES

1st Printing

By Guerrero

H.B. No. 715

Substitute the following for H.B. No. 715:

By P. Hill of Dallas

C.S.H.B. No. 715

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BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

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(d) The corporation is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the corporation is abolished and this chapter expires September 1, 2001 [1989].

SECTION 3. Section 57.13, Education Code, is amended to read as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a board of 10 [11] directors appointed in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint nine [eight] members to the board. Five members must have knowledge of or experience in finance, including management of funds or business operations. One member must be a student who is

enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution. Three members must be ~~[persons--working--in-commercial-finance,--three-must-be]~~ members of the faculty or administration of an eligible postsecondary educational institution, as defined by Section 57.46 of this code~~;~~ and--two--must-be-members-of-the-general-public-who-do-not-derive-a majority-of--their--income--from--higher--education--or--commercial finance].

(c) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees. ~~[The-chairman-of-the-Coordinating-Board, Texas--College-and-University-System,--shall-appoint-a-member-of-the coordinating-board-to-the-corporation-board-of-directors-~~

~~[(d)--The-commissioner-of-higher-education--shall--appoint--a student--enrolled--in-a-public-or-private-postsecondary-educational institution-to-the--board.---Before--making--the--appointment,--the commissioner---of---higher--education--shall--consult--with--higher education-student-organizations-from-all-regions-of-the-state-]~~

(d) ~~[(e)]~~ The comptroller of public accounts or the comptroller's designee shall serve as an ex officio voting [a] member of the board.

(e) ~~[(f)]~~ Each member of the board must be a Texas resident.

SECTION 4. Chapter 57, Education Code, is amended by adding Section 57.131 to read as follows:

Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

1 a Texas trade association of institutions that originate or hold
2 student loans or a Texas trade association in the field of higher
3 education may not be a member of the board or a corporation
4 employee who is exempt from the corporation's position
5 classification schedule.

6 (b) A person who is the spouse of an officer, manager, or
7 paid consultant of a Texas trade association described by
8 Subsection (a) of this section may not be a member of the board and
9 may not be a corporation employee who is exempt from the
10 corporation's position classification schedule.

11 (c) A person may not serve as a member of the board or act
12 as the general counsel to the board if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the corporation.

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17 required by Section 57.13(b) to have knowledge of or experience in
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19 employee of an eligible lender that participates in the guaranteed
20 student loan program.

21 (e) For the purposes of this section, a Texas trade
22 association is a nonprofit, cooperative, and voluntarily joined
23 association of business or professional competitors in this state
24 designed to assist its members and its industry or profession in
25 dealing with mutual business or professional problems and in
26 promoting their common interest.

27 SECTION 5. Chapter 57, Education Code, is amended by adding

Section 57.141 to read as follows:

Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 57.13(b) of this code;

(2) does not maintain during service on the board the qualifications required by Section 57.13(b) of this code;

(3) violates a prohibition established by Section 57.131 of this code;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a board member existed.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

SECTION 6. Section 57.18, Education Code, is amended to read as follows:

Sec. 57.18. MEETINGS. (a) The board may meet as often as necessary, but shall meet at least twice a year.

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees.

16 (d) The executive director or the executive director's
17 designee shall develop an intra-agency career ladder program. The
18 program shall require intra-agency postings of all nonentry level
19 positions concurrently with any public posting.

20 (e) The executive director or the executive director's
21 designee shall develop a system of annual performance evaluations.
22 All merit pay for corporation employees must be based on the system
23 established under this subsection.

24 (f) The executive director or the executive director's
25 designee shall prepare and maintain a written policy statement to
26 assure implementation of a program of equal employment opportunity
27 under which all personnel transactions are made without regard to

1 race, color, handicap, sex, religion, age, or national origin. The
2 policy statement must include:

3 (1) personnel policies, including policies relating to
4 recruitment, evaluation, selection, appointment, training, and
5 promotion of personnel;

6 (2) a comprehensive analysis of the corporation's work
7 force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of
9 significant underuse in the corporation's work force of all persons
10 for whom federal or state guidelines encourage a more equitable
11 balance; and

12 (4) reasonable methods to appropriately address those
13 areas of significant underuse.

14 (g) A policy statement prepared under Subsection (f) of this
15 section must cover an annual period, be updated at least annually,
16 and be filed with the governor's office.

17 (h) The governor's office shall deliver a biennial report to
18 the legislature based on the information received under Subsection
19 (g) of this section. The report may be made separately or as part
20 of other biennial reports made to the legislature.

21 (i) The board shall adopt policies that clearly define the
22 respective responsibilities of the governing body of the
23 corporation and the staff of the corporation.

24 SECTION 8. Section 57.20, Education Code, is amended to read
25 as follows:

26 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
27 [EMPLOYEES]. (a) The board shall prepare information of public

interest describing the functions of the board and corporation and the procedures by which complaints are filed with and resolved by the board. The corporation shall make the information available to the public and appropriate state agencies.

(b) The board shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the corporation for the purpose of directing complaints to the board or corporation.

(c) The corporation shall keep an information file about each complaint filed with the corporation that the corporation has authority to resolve.

(d) If a written complaint is filed with the corporation that the corporation has authority to resolve, the corporation, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.
~~[The-board-may-appoint-employees-and-may-fix-their-compensation-and prescribe-their-duties.]~~

SECTION 9. Chapter 57, Education Code, is amended by adding Section 57.24 to read as follows:

Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation may participate in a revenue-generating activity that is consistent with the corporation's purpose if the board determines that the revenue from the activity:

(1) is sufficient to cover the costs of the activity;
and

1 (2) will contribute to a reduction in the insurance
2 premium paid by students under Section 57.43 of this code.

3 (b) If, under Subsection (a) of this section, the board
4 authorizes the corporation to perform additional services, the
5 corporation may not require postsecondary educational institutions
6 or students to use those services unless required by state or
7 federal law.

8 (c) The corporation may not guarantee loans for other
9 states.

10 SECTION 10. Section 57.41(c), Education Code, is amended to
11 read as follows:

12 (c) The corporation shall, to the extent funds are
13 available, make loans to eligible students, as a lender of last
14 resort, under the following conditions:

15 (1) the borrower certifies and provides evidence to
16 the corporation that he/she has made an application to at least two
17 qualified lenders and was unable to obtain a guaranteed student
18 loan from a commercial lender and is not aware of any eligible
19 lender in this state that is willing to make a guaranteed student
20 loan;

21 (2) the borrower also certifies to the corporation
22 that he/she was unable to obtain a guaranteed student loan from the
23 Texas Higher Education Coordinating Board[~~7--Texas--College-and~~
24 University-System];

25 (3) the corporation certifies that it is not aware of
26 any eligible lender in this state that is willing to make a
27 guaranteed student loan; and

(4) the corporation must, to the extent a market is available, sell loans made as last resort loans within a reasonable period of time of the date of loan origination. This provision will not apply to any loans that cannot be sold at par.

The corporation shall maintain a separate file showing the name and address of the student receiving such a loan and the name and address of the involved educational institution.

SECTION 11. Section 57.43, Education Code, is amended to read as follows:

Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may impose and collect insurance premiums from student borrowers in an amount not to exceed the maximum allowable under the Higher Education Act of 1965, as amended.

(b) If the corporation imposes an insurance premium under this section, the corporation must impose the lowest insurance premium practicable that:

- (1) complies with federal requirements; and
- (2) does not jeopardize the corporation's financial viability.

SECTION 12. Section 57.45(a), Education Code, is amended to read as follows:

(a) In order to qualify as an eligible lender under this subchapter, the lender must:

- (1) be an eligible lender for purposes of the Higher Education Act of 1965, as amended; and
- (2) ~~[have--its--principal--place-of-business-in-Texas;~~
and

1 [~~3~~] enter into an agreement with the corporation for
2 participation in the program.

3 SECTION 13. Chapter 57, Education Code, is amended by adding
4 Section 57.461 to read as follows:

5 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
6 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

7 (1) an advisory committee that is composed of 15
8 members who represent the postsecondary educational institutions
9 that participate in the corporation's guaranteed student loan
10 program; and

11 (2) an advisory committee that is composed of 12
12 members including:

13 (A) one member who represents the Texas Higher
14 Education Coordinating Board; and

15 (B) 11 members who represent lenders that
16 participate in the corporation's guaranteed student loan program.

17 (b) The board shall appoint advisory committee members on
18 the recommendation of the executive director.

19 (c) The board may establish other advisory committees as the
20 board considers necessary.

21 (d) The board shall:

22 (1) specify each advisory committee's purpose and
23 duties; and

24 (2) require each committee to report to the board in a
25 manner specified by the board relating to each committee's
26 activities and work results.

27 SECTION 14. Section 57.47, Education Code, is amended by

1 amending Subsection (a) and adding Subsection (d) to read as
2 follows:

3 (a) If a student borrower defaults on a loan and the
4 corporation is required to honor the guarantee, the corporation or
5 the Texas Higher Education Coordinating Board~~[7-Texas--College--and~~
6 ~~University--System]~~ shall bring suit against the defaulting party
7 as soon as practicable.

8 (d) Notwithstanding any other law, if the corporation or the
9 Texas Higher Education Coordinating Board brings suit against a
10 defaulting party under this section, the corporation or the
11 coordinating board, as appropriate, shall pay 50 percent of the
12 statutory filing fee in effect on the date on which the suit is
13 filed. If the defaulting borrower prevails in the suit filed under
14 this section, the corporation or the coordinating board, as
15 appropriate, shall pay the remaining 50 percent of the statutory
16 filing fee on the date of the final disposition of the suit. If
17 the corporation or coordinating board prevails in the suit:

18 (1) the judgment shall find the defaulting borrower
19 liable to the corporation or the coordinating board, as
20 appropriate, for the amount of the filing fee; and

21 (2) the corporation or coordinating board, as
22 appropriate, shall pay the remaining 50 percent of the statutory
23 filing fee not later than one week after the date on which the
24 defaulting borrower pays to the corporation or coordinating board,
25 as appropriate, the full amount, including the filing fee, for
26 which the borrower is liable to the corporation or coordinating
27 board.

1 SECTION 15. Chapter 57, Education Code, is amended by adding
2 Section 57.481 to read as follows:

3 Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In
4 this section, "loan default rate" means the rate at which student
5 borrowers default on loans guaranteed by the corporation as
6 determined by the corporation in compliance with federal
7 guidelines.

8 (b) The corporation shall take an active role in
9 coordinating, facilitating, and providing technical assistance on
10 guaranteed student loan default prevention and reduction
11 initiatives and programs in the state and shall work with the
12 appropriate state agencies and other entities, including eligible
13 postsecondary educational institutions, eligible lenders,
14 servicers, secondary markets, the Texas Higher Education
15 Coordinating Board, the Central Education Agency, and state
16 professional and occupational licensing agencies.

17 (c) The corporation shall maintain a system of communication
18 among the appropriate state agencies and entities to reduce loan
19 default claims.

20 (d) The corporation shall:

21 (1) calculate the loan default rates for the
22 postsecondary educational institutions that participate in the
23 corporation's guaranteed student loan program; and

24 (2) semiannually notify the postsecondary educational
25 institutions of those loan default rates.

26 (e) The corporation after consultation with eligible
27 institutions and lenders and consistent with federal regulations

1 and policies shall establish a loan default rate for a
 2 postsecondary educational institution or lender that, if exceeded,
 3 requires the corporation to intervene as provided by Subsection (f)
 4 of this section or permits the corporation to intervene as provided
 5 by Subsection (g) of this section.

6 (f) If a postsecondary educational institution's loan
 7 default rate exceeds the rate established for the institution under
 8 Subsection (e) of this section, the corporation shall conduct
 9 program evaluations for the institution or provide technical
 10 assistance to the institution, or both.

11 (g) If a postsecondary educational institution's or lender's
 12 loan default rate exceeds the rate established under Subsection (e)
 13 of this section, the corporation may require the institution or
 14 lender, as a condition of eligibility to participate in the
 15 corporation's guaranteed student loan program, to take one or more
 16 actions, including to require:

17 (1) educational institutions to set tuition and fees
 18 refund policies for students who do not complete their course of
 19 study that:

20 (A) are more beneficial to students; and

21 (B) encourage repayment of student loans;

22 (2) lenders to disburse loans to students in more
 23 installments than required by federal guidelines, to the extent
 24 permitted by federal law and federal guidelines; or

25 (3) lenders to notify in clear language the affected
 26 postsecondary educational institutions and student borrowers if
 27 student loans are assigned or transferred to another eligible

1 lender.

2 (h) Before the corporation may require a postsecondary
3 educational institution or lender to take any action under
4 Subsection (g) of this section, the proposed action must be
5 reviewed by the postsecondary educational institution or lender
6 advisory committee established under Section 57.461 of this code,
7 as appropriate.

8 (i) The corporation shall develop, in consultation with the
9 Central Education Agency and each state agency that regulates
10 proprietary schools in this state, a comprehensive strategy to
11 reduce default rates at the regulated proprietary schools and to
12 improve the overall quality of the programs operated by these
13 schools. The corporation shall execute a memorandum of
14 understanding outlining the strategy with each state agency
15 regulating proprietary schools and shall establish procedures to
16 carry out its duties under this section. Each memorandum of
17 understanding shall be adopted by rule by each agency and shall:

18 (1) require the development and monitoring of
19 indicators that identify schools that have excessive loan default
20 rates, poor program performance, or both;

21 (2) require the sharing of specific information
22 relating to the indicators between the corporation and the agency;
23 and

24 (3) require the application of specific sanctions by
25 the corporation or the agency, as appropriate, to lower the default
26 rates, improve program performance, or both.

27 SECTION 16. Chapter 57, Education Code, is amended by adding

Section 57.491 to read as follows:

Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

(1) "License" means a certificate or similar form of permission issued or renewed by a licensing agency and required by law to engage in a profession or occupation.

(2) "Licensee" means a person to whom a licensing agency issues a license.

(3) "Licensing agency" means a board, commission, department, or other agency in the executive branch of state government that issues or renews a license.

(b) The corporation shall identify the licensing agencies subject to this section and provide written notice to those agencies of the requirements prescribed by this section. Only those licensing agencies that the corporation identifies and that receive such notice are required to carry out this section.

(c) The corporation periodically shall:

(1) identify the persons who are in default on loans guaranteed by the corporation; and

(2) provide a written list of the names of those persons to the licensing agencies.

(d) A person who is in default on a loan may enter an agreement with the corporation for repayment of a defaulted loan as required under this section. The corporation shall provide the person with a certificate certifying that the person has entered a repayment agreement on the defaulted loan.

(e) A licensing agency shall not renew the license of a

1 licensee whose name is on the list provided by the corporation
2 under Subsection (c) of this section unless:

3 (1) the renewal is the first renewal following the
4 agency's receipt of the list including the licensee's name among
5 those in default; or

6 (2) the licensee presents to the agency a certificate
7 issued by the corporation certifying that:

8 (A) the licensee has entered a repayment
9 agreement on the defaulted loan; or

10 (B) the licensee is not in default on a loan
11 guaranteed by the corporation.

12 (f) A licensing agency may issue an initial license to a
13 person whose name is on the list provided by the corporation under
14 Subsection (c) of this section and who meets all other
15 qualifications for licensure, but shall not renew the license
16 unless the person presents to the agency a certificate issued by
17 the corporation certifying that:

18 (1) the licensee has entered a repayment agreement on
19 the defaulted loan; or

20 (2) the licensee is not in default on a loan
21 guaranteed by the corporation.

22 (g) A licensing agency shall not renew the license of a
23 licensee who defaults on a repayment agreement unless the person
24 presents to the agency a certificate issued by the corporation
25 certifying that:

26 (1) the licensee has entered another repayment
27 agreement on the defaulted loan; or

1 (2) the licensee is not in default on a loan
2 guaranteed by the corporation or on a repayment agreement.

3 (h) A licensing agency shall provide written notice of the
4 nonrenewal policies established under Subsections (e), (f), and (g)
5 of this section to each applicant for a license or for renewal of a
6 license. The corporation shall provide written notice of those
7 same policies on each loan application form provided by the
8 corporation and on each promissory note signed by a borrower.
9 Failure to provide the notice required by this subsection does not
10 affect the default status of a borrower or the prohibitions on
11 renewal of a license held by a person in default.

12 (i) A licensing agency shall provide an opportunity for a
13 hearing to a licensee before the agency takes action concerning the
14 nonrenewal of a license under this section.

15 (j) Each licensing agency shall adopt any rules necessary to
16 carry out the licensing agency's duties under this section.

17 (k) The board shall establish procedures to carry out the
18 corporation's duties under this section.

19 (l) This section does not apply to the State Securities
20 Board.

21 SECTION 17. Section 57.50, Education Code, is amended to
22 read as follows:

23 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
24 an eligible lender may discriminate against an eligible student in
25 making a loan or loan guarantee on the basis of race, age,
26 religion, [~~income~~] or sex.

27 SECTION 18. Section 57.76, Education Code, is amended to

1 read as follows:

2 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
3 corporation shall have a fiscal audit performed by a certified
4 public accountant.

5 (b) A copy of the annual audit shall be submitted to the
6 state auditor for review. The state auditor may:

7 (1) examine any working papers from the annual audit;
8 and

9 (2) conduct a separate audit if, after reviewing the
10 independent audit, the state auditor considers a separate audit
11 necessary.

12 SECTION 19. Chapter 57, Education Code, is amended by adding
13 Section 57.761 to read as follows:

14 Sec. 57.761. INTERNAL AUDITOR. (a) The executive director
15 shall appoint an internal auditor for the corporation. The
16 appointment of an internal auditor must be approved by the board.

17 (b) The internal auditor shall report to the executive
18 director. The board may require the internal auditor to submit
19 directly to the board certain reports specified by the board.

20 (c) The board's executive committee, a subcommittee of the
21 board, shall meet with the internal auditor on a regular basis.

22 (d) The internal auditor shall examine the corporation's
23 system of internal controls and its system of identifying fixed and
24 variable costs, including administrative costs.

25 SECTION 20. Section 82.022, Government Code, is amended by
26 adding Subsection (c) to read as follows:

27 (c) The supreme court may adopt rules relating to the

1 nonrenewal of the license of a lawyer who is in default on a loan
2 guaranteed under Chapter 57, Education Code, by the Texas
3 Guaranteed Student Loan Corporation.

4 SECTION 21. Sections 57.21 and 57.51, Education Code, are
5 repealed.

6 SECTION 22. (a) A member of the board of the Texas
7 Guaranteed Student Loan Corporation appointed by the governor or by
8 the commissioner of higher education and serving on the board on
9 the effective date of this Act serves until the member vacates the
10 office or until the member's term expires. As vacancies occur or
11 board members' terms expire, the governor shall appoint new members
12 to achieve the membership scheme prescribed by Section 57.13(b),
13 Education Code, as amended by this Act. To fill the new membership
14 position created on the board by this Act's amendment of Section
15 57.13(b), the governor shall appoint the full-time student member
16 of the board for a term expiring January 31, 1993. The position on
17 the board filled through appointment by the chairman of the Texas
18 Higher Education Coordinating Board is abolished on the effective
19 date of this Act.

20 (b) The first policy statement required to be filed under
21 Section 57.19, Education Code, as amended by this Act, must be
22 filed before November 1, 1989.

23 (c) The corporation and each agency regulating proprietary
24 schools shall adopt the memorandum of understanding required under
25 Section 57.481(i), Education Code, as added by this Act, before
26 September 1, 1990.

27 (d) A state agency that issues professional or occupational

1 licenses may not:

2 (1) take action concerning the nonrenewal of a license
3 before September 1, 1991, under Section 57.491, Education Code, as
4 added by this Act; or

5 (2) issue notice as provided by Section 57.491(h),
6 Education Code, as added by this Act, before September 1, 1990, to
7 persons who apply for a license.

8 SECTION 23. This Act takes effect September 1, 1989.

9 SECTION 24. The importance of this legislation and the
10 crowded condition of the calendars in both houses create an
11 emergency and an imperative public necessity that the
12 constitutional rule requiring bills to be read on three several
13 days in each house be suspended, and this rule is hereby suspended.

COMMITTEE REPORT

The Honorable Gib Lewis
Speaker of the House of Representatives

April 18, 1989
(date)

Sir:

We, your COMMITTEE ON GOVERNMENT ORGANIZATION,

to whom was referred H.B. 715 (measure) have had the same under consideration and beg to report back with the recommendation that it

() do pass, without amendment.

() do pass, with amendment(s).

(X) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.

A fiscal note was requested. (X) yes () no

An actuarial analysis was requested. () yes (X) no

An author's fiscal statement was requested. () yes (X) no

A criminal justice policy impact statement was prepared. () yes (X) no

A water development policy impact statement was requested. () yes (X) no

() The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars for placement on the () Local, () Consent, or () Resolutions Calendar.

This measure () proposes new law. (X) amends existing law.

House Sponsor of Senate Measure _____

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Gibson, Ch.			✓	
Eckels, V.C.	✓			
Finnell	✓			
Granoff	✓			
Guerrero	✓			
Hill, A.	✓			
Hill, P.	✓			
Schlueter				✓
Smith, A.				✓

Total

6

aye

0

nay

1

present, not voting

2

absent

CHAIRMAN

COMMITTEE COORDINATOR

Bill Analysis

Background

The Texas Guaranteed Student Loan Corporation (TGS LC) is a public non-profit corporation established in 1979 to administer the federal guaranteed student loan program in Texas. The primary responsibility of the corporation is to guarantee to private lenders the repayment of principal and accrued interest for each eligible student loan. Loans are available to students attending colleges, universities, and postsecondary educational vocational schools and the TGS LC program is the largest student financial assistance program in the state. The TGS LC prescribes the terms and conditions under which loans will be guaranteed, processes loans, and assists lenders in various functions. The corporation charges each borrower a guarantee fee which is deducted from the loan. As of September 30, 1988, the outstanding principal balance of loan guarantees was \$1.8 billion and 243,000 loans were guaranteed in 1988.

The corporation is subject to the sunset act and will be abolished September 1, 1989 unless continued by the legislature. As a result of its review of the corporation, the Sunset Advisory Commission recommended continuation and several statutory modifications which are contained in this legislation.

Purpose

The purpose of this bill is to provide for the continuation of the Texas Guaranteed Student Loan Corporation and to make statutory modifications recommended by the Sunset Advisory Commission concerning the corporation. Generally, modifications proposed by this bill:

- change the composition of the board to provide for increased public representation, allow more flexibility in appointments, and remove participating lenders from board eligibility;
- provide for statutory lender and school advisory committees;
- enhance the accountability of the corporation to the state by requiring the state auditor to review the independent audit of the corporation, requiring the appointment of an internal auditor, and including the corporation under the Open Meetings Act;
- direct the corporation to charge students the lowest guarantee fee possible;
- authorize the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum;
- authorize payment in two portions of the statutory filing fees due in Travis County when suit is filed on defaulted student loan borrowers;
- strengthen the powers of the corporation to deal with loan defaults by imposing additional participation requirements of high default schools and lenders;
- strengthen the powers of the corporation to reduce proprietary schools' loan default rates by directing the corporation to work with the Central Education Agency and each state agency which regulates proprietary schools to develop comprehensive strategies to reduce default rates and improve school performance;
- provide that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period; and
- provide for various other changes recommended by the Sunset Commission.

Section by Section Analysis

SECTION 1. Amends Section 57.11 Education Code. Subjects the corporation to the open meetings law (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Amends Section 57.12. Updates the corporation's sunset date to 2001 which provides for the usual twelve-year review.

SECTION 3. Amends Section 57.13. Modifies the composition of the corporation's board of directors. Reduces the total number of board members from eleven to ten by eliminating the position currently appointed by the chairman of the Coordinating Board. Increases the number of governor-appointed members by one to a total of nine by requiring the appointment of the full-time student member by the governor instead of the commissioner of higher education. Replaces the two public members and three lenders appointed by the governor with five members who have knowledge of or experience in finance. Maintains three governor-appointed members on the board who represent the faculty or administration of an institution of higher education. Maintains the comptroller of public accounts on the board and clarifies that it is an ex officio voting position and that his designee may serve. Adds standard language developed by the Sunset Commission regarding board appointments.

SECTION 4. Adds Section 57.131 to add standard language developed by the Sunset Commission and additional language regarding conflicts of interest in board appointments. Defines conflicts of interest situations related to trade associations for board members and exempt corporate employees. Prohibits a registered lobbyist from serving on the board or acting as general counsel to the corporation. Also prohibits board members or employees of lenders participating in the guaranteed student loan program from serving on the board.

SECTION 5. Adds Section 57.141 to add standard language developed by the Sunset Commission. Specifies grounds and procedures for removal of board members.

SECTION 6. Amends Section 57.18 to add standard language developed by the Sunset Commission. Requires policies to allow public testimony at board meetings.

SECTION 7. Amends Section 57.19 to add standard language developed by the Sunset Commission and reorganize existing statutory language. (b) Restores language deleted in SECTION 8 regarding employees.

(c) Restores language deleted in SECTION 20 regarding employees.

(d) Requires the executive director or designee to develop an intra-agency career ladder program.

(e) Requires the executive director or designee to develop a job performance system upon which merit salary increases would be based.

(f)-(h) Requires the executive director or designee to prepare and maintain an equal employment policy.

(i) Requires the board to clearly define board vs. staff responsibilities.

SECTION 8. Amends Section 57.20 to add standard language developed by the Sunset Commission. Requires the corporation to develop public information and specifies procedures to deal with complaints. Also deletes language regarding employees which is restored in SECTION 7.

SECTION 9. Adds Section 57.24. Authorizes the corporation to engage in additional revenue-generating activities consistent with its mission under specified conditions. Prohibits the corporation from requiring schools to use those services and prohibits the corporation from guaranteeing loans for other states.

SECTION 10. Amends Section 57.41 to reflect the current name of the Coordinating Board.

SECTION 11. Amends Section 57.43. Directs the corporation to charge the lowest practicable insurance premium.

SECTION 12. Amends Section 57.45. Removes the requirement that an eligible lender have its principal place of business in Texas to make state law consistent with federal laws enacted in 1986.

SECTION 13. Adds Section 57.461. Establishes the postsecondary educational institutions and lender advisory committees and specifies their composition. Provides that the board shall appoint members. Authorizes other advisory committees. Requires the board to specify each committee's purpose, duties and manner of reporting.

SECTION 14. Amends Section 57.47. to reflect the current name of the Coordinating Board. Also authorizes the corporation and the Coordinating Board to pay in two portions the statutory fees due when suits are filed in Travis County on defaulted student loan borrowers. Fifty percent of the fees due would be paid when suits are filed and the remaining 50 percent would be paid when the defaulting borrower's liability to the corporation or the coordinating board has been paid in full.

SECTION 15. Adds Section 57.481. Directs the corporation to take an active role in loan default reduction initiatives in the state and maintain good communications among the pertinent state agencies to reduce defaults. Requires the corporation to notify schools semiannually of their default rates. Requires the corporation to conduct program evaluations and/or provide technical assistance to high default schools and authorizes the corporation to impose additional program eligibility requirements on high default schools or lenders.

The section also requires the corporation to work with the Central Education Agency and each agency which regulates proprietary schools to develop comprehensive strategies to reduce default rates at these schools. The strategies are to be developed in the form of memoranda of understanding and shall specify the development and monitoring of indicators, the sharing of specific data between agencies, and the application of specific sanctions to lower the default rates and improve program performance.

SECTION 16. Adds Section 57.491. Establishes loan default as a ground for nonrenewal of professional or occupational licenses. Specific safeguards and procedures are set out for both the corporation and the licensing agencies. Some of these procedures include notification to loan and license applicants, opportunity for repayment agreements, opportunity for a hearing, allowing issuance of an initial license to a person in default, and prohibiting renewal of licenses to persons who default on a repayment agreement.

SECTION 17. Amends Section 57.50. Removes the prohibition regarding discriminating against an eligible student on the basis of "income" to comply with federal financial need requirements for loan eligibility.

SECTION 18. Amends Section 57.76. Requires a copy of the corporation's annual audit be submitted to the state auditor for review and authorizes the state auditor to examine the work papers and/or conduct a separate audit if necessary.

SECTION 19. Adds Section 57.761. Requires the corporation to appoint an internal auditor. Specifies the internal auditor's duties and reporting procedures.

SECTION 20. Amends Section 82.022 Government Code. Authorizes the supreme court to adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a guaranteed student loan.

SECTION 21. Repeals Section 57.21 Education Code. Deletes language regarding corporate employees which is restored in SECTION 7. Repeals Section 57.51. Deletes outdated transitional language.

SECTION 22. (a) Allows current board members to serve out their terms, except for the position appointed by the chairman of the Coordinating Board, which is abolished on the effective date. Provides instructions regarding new members appointed to the board.

(b) Specifies that the first EEO policy statement required in SECTION 7 of the bill must be filed by November 1, 1989.

(c) Specifies that the memoranda of understanding required in SECTION 15 be adopted prior to September 1, 1990.

(d) Specifies that professional and occupational licensing agencies may not take action concerning the nonrenewal of a license before September 1, 1991 nor issue notice regarding possible nonrenewal at the next renewal date prior to September 1, 1990.

SECTION 23. Establishes the effective date of the Act as September 1, 1989.

SECTION 24. Emergency clause.

Rulemaking Authority

Since the Texas Guaranteed Student Loan Corporation is not a state agency, it is not granted rulemaking authority in its own statute or the Administrative Procedure Act.

SECTION 15. Section 57.481 Education Code. Requires the corporation to work with the Central Education Agency and each agency which regulates proprietary schools to develop comprehensive strategies to reduce default rates at these schools. The strategies are to be developed in the form of memoranda of understanding which shall specify the development and monitoring of indicators, the sharing of specific data between agencies, and the application of specific sanctions to lower the default rates and improve program performance. Requires each memorandum of understanding to be adopted by rule by each agency and requires the corporation to establish procedures to carry out its duties under this section.

SECTION 16. Section 57.491. Directs professional and occupational licensing agencies to adopt rules and the corporation to establish procedures in order to provide for the nonrenewal of a license to loan defaulters.

SECTION 20. Section 82.022 Government Code. Authorizes the supreme court to adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a guaranteed student loan.

Comparison of Original Bill with Substitute

Major points of difference between H.B. 715, as filed, and the committee substitute are as follows:

1. The substitute adds a provision which authorizes the corporation and the Texas Higher Education Coordinating Board to pay the statutory filing fees due when they file suit in Travis County on defaulted student loan borrowers in two portions. Fifty percent of the fees due would be paid at the time suits are filed and the remaining 50 percent would be paid when the defaulting borrower's liability to the corporation or the coordinating board has been paid in full. The original bill had no such provision.
2. The substitute removes provisions in the original bill which required all proprietary schools to submit dropout data to the Central Education Agency (TEA) and required TEA to analyze the data in conjunction with each school's loan default rate. Instead, the substitute adds language which requires the corporation to work with the TEA and each agency which regulates proprietary schools to develop comprehensive strategies to reduce default rates at these schools. The strategies are to be developed in the form of memoranda of understanding and must specify the development and monitoring of indicators, the sharing of specific data between agencies, and the application of specific sanctions to lower the default rates and improve program performance.
3. The substitute exempts the State Securities Board from the provisions in the bill relating to establishing student loan default as a ground for nonrenewal of professional or occupational licenses. The original bill had no such provision.
4. The substitute removes the original bill's definition of the state bar of Texas as a "licensing agency" for the purposes of establishing student loan default as a ground for nonrenewal of professional or occupational licenses and adds a provision authorizing the supreme court to adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a student loan. The supreme court of Texas develops rules under which the board of law examiners issues licenses for the practice of law.

Summary of Committee Action

H.B. 715 was considered in a public hearing on March 14, 1989. Testifying for the bill were Joe L. McCormick, executive director of the Texas Guaranteed Student Loan Corporation, representing the Texas Guaranteed Student Loan Corporation; Michael A. Novak (for H.B. 715 with modifications), director of the Office of Student Financial Services at the University of Texas at Austin, representing the Texas Association of Student Financial Aid Administrators and Judy Walker (director of the Office of Student Financial Aid at the University of Texas at Arlington); Mariko Gomez of the Financial Aid Office at Southwest Texas State University, representing herself; and Terry S. Smith, director of Enrollment Services at Huston-Tillotson College, representing himself. No one testified against H.B. 715. Testifying as resource witnesses on H.B. 715 were Angela Moretti of the Sunset Advisory Commission staff, representing the Sunset Advisory Commission; and Bill Wells, director of the Sunset Advisory Commission, representing the Sunset Advisory Commission.

H.B. 715 was referred to a subcommittee consisting of Rep. P. Hill (chair), Rep. A. Hill, and Rep. Schlueter. The subcommittee convened in a formal meeting on April 13, 1989. At that meeting Rep. Anita Hill offered three amendments to H.B. 715, all of which were adopted, and moved that the amendments be embodied into H.B. 715 as a committee substitute. The motion prevailed without objection. A separate motion to adopt H.B. 715 as substituted prevailed by a record vote of 2 ayes, 0 nays, 0 PNV, and 1 absent.

The subcommittee report was considered by the full committee on April 18, 1989. Rep. Guerrero offered a substitute which was adopted and reported favorably. The motion to report favorably H.B. 715 as substituted prevailed by a record vote of 6 ayes, 0 nays, 1 PNV, and 2 absent.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 25, 1989

TO: Honorable Bruce Gibson, Chair
Committee on Government Organization
House of Representatives
Austin, Texas

In Re: Committee Substitute
for House Bill No. 715

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 715 (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

The Texas Guaranteed Student Loan Corporation is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1989.

The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, PA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 14, 1989

TO: Honorable Bruce Gibson, Chair
Committee on Government Organization
House of Representatives
Austin, Texas

In Re: House Bill No. 715
By: Guerrero

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 715 (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

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No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, CKM

ADOPTED *as amended*

MAY 8 1989

Betty Murray
Chief Clerk
House of Representatives.

By Guerrero

H.B. No. 715

Substitute the following for H.B. No. 715:

By *P. Neil*

C.S.H.B. No. 715

A BILL TO BE ENTITLED

AN ACT

relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.11, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The corporation is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the corporation is abolished and this chapter expires September 1, 2001 [1989].

SECTION 3. Section 57.13, Education Code, is amended to read as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a board of 10 [11] directors appointed in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint nine [eight] members to the board. Five members must have knowledge of or experience in finance, including management of funds or business operations. One member must be a student who is

1 enrolled at a postsecondary educational institution for the number
 2 of credit hours required by the institution to be classified as a
 3 full-time student of the institution. Three members must be
 4 [~~persons--working--in-commercial-finance;-three-must-be~~] members of
 5 the faculty or administration of an eligible postsecondary
 6 educational institution, as defined by Section 57.46 of this code[
 7 ~~and--two--must-be-members-of-the-general-public-who-do-not-derive-a~~
 8 ~~majority-of--their--income--from--higher--education--or--commercial~~
 9 ~~finance)].~~

10 (c) Appointments to the board shall be made without regard
 11 to the race, color, handicap, sex, religion, age, or national
 12 origin of the appointees. [~~The-chairman-of-the-Coordinating-Board,~~
 13 ~~Texas--College-and-University-System;-shall-appoint-a-member-of-the~~
 14 ~~coordinating-board-to-the-corporation-board-of-directors-~~

15 [~~(d)--The-commissioner-of-higher-education--shall--appoint--a~~
 16 ~~student--enrolled--in-a-public-or-private-postsecondary-educational~~
 17 ~~institution-to-the--board;---Before--making--the--appointment,--the~~
 18 ~~commissioner---of---higher--education--shall--consult--with--higher~~
 19 ~~education-student-organizations-from-all-regions-of-the-state-]~~

20 (d) [~~(e)~~] The comptroller of public accounts or the
 21 comptroller's designee shall serve as an ex officio voting [a]
 22 member of the board.

23 (e) [~~(f)~~] Each member of the board must be a Texas resident.

24 SECTION 4. Chapter 57, Education Code, is amended by adding
 25 Section 57.131 to read as follows:

26 Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP,
 27 AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

a Texas trade association of institutions that originate or hold student loans or a Texas trade association in the field of higher education may not be a member of the board or a corporation employee who is exempt from the corporation's position classification schedule.

(b) A person who is the spouse of an officer, manager, or paid consultant of a Texas trade association described by Subsection (a) of this section may not be a member of the board and may not be a corporation employee who is exempt from the corporation's position classification schedule.

(c) A person may not serve as a member of the board or act as the general counsel to the board if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the corporation.

(d) A person may not be one of the members of the board required by Section 57.13(b) to have knowledge of or experience in finance if the person is a member of the board of directors or an employee of an eligible lender that participates in the guaranteed student loan program.

(e) For the purposes of this section, a Texas trade association is a nonprofit, cooperative, and voluntarily joined association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.

SECTION 5. Chapter 57, Education Code, is amended by adding

1 Section 57.141 to read as follows:

2 Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground
3 for removal from the board if a member:

4 (1) does not have at the time of appointment the
5 qualifications required by Section 57.13(b) of this code;

6 (2) does not maintain during service on the board the
7 qualifications required by Section 57.13(b) of this code;

8 (3) violates a prohibition established by Section
9 57.131 of this code;

10 (4) cannot discharge the member's duties for a
11 substantial part of the term for which the member is appointed
12 because of illness or disability; or

13 (5) is absent from more than half of the regularly
14 scheduled board meetings that the member is eligible to attend
15 during a calendar year unless the absence is excused by majority
16 vote of the board.

17 (b) The validity of an action of the board is not affected
18 by the fact that it was taken when a ground for removal of a board
19 member existed.

20 (c) If the executive director has knowledge that a potential
21 ground for removal exists, the executive director shall notify the
22 chairman of the board of the ground. The chairman shall then
23 notify the governor that a potential ground for removal exists.

24 SECTION 6. Section 57.18, Education Code, is amended to read
25 as follows:

26 Sec. 57.18. MEETINGS. (a) The board may meet as often as
27 necessary, but shall meet at least twice a year.

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees.

16 (d) The executive director or the executive director's
17 designee shall develop an intra-agency career ladder program. The
18 program shall require intra-agency postings of all nonentry level
19 positions concurrently with any public posting.

20 (e) The executive director or the executive director's
21 designee shall develop a system of annual performance evaluations.
22 All merit pay for corporation employees must be based on the system
23 established under this subsection.

24 (f) The executive director or the executive director's
25 designee shall prepare and maintain a written policy statement to
26 assure implementation of a program of equal employment opportunity
27 under which all personnel transactions are made without regard to

1 race, color, handicap, sex, religion, age, or national origin. The
2 policy statement must include:

3 (1) personnel policies, including policies relating to
4 recruitment, evaluation, selection, appointment, training, and
5 promotion of personnel;

6 (2) a comprehensive analysis of the corporation's work
7 force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of
9 significant underuse in the corporation's work force of all persons
10 for whom federal or state guidelines encourage a more equitable
11 balance; and

12 (4) reasonable methods to appropriately address those
13 areas of significant underuse.

14 (g) A policy statement prepared under Subsection (f) of this
15 section must cover an annual period, be updated at least annually,
16 and be filed with the governor's office.

17 (h) The governor's office shall deliver a biennial report to
18 the legislature based on the information received under Subsection
19 (g) of this section. The report may be made separately or as part
20 of other biennial reports made to the legislature.

21 (i) The board shall adopt policies that clearly define the
22 respective responsibilities of the governing body of the
23 corporation and the staff of the corporation.

24 SECTION 8. Section 57.20, Education Code, is amended to read
25 as follows:

26 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
27 [EMPLOYEES]. (a) The board shall prepare information of public

1 interest describing the functions of the board and corporation and
2 the procedures by which complaints are filed with and resolved by
3 the board. The corporation shall make the information available to
4 the public and appropriate state agencies.

5 (b) The board shall establish methods by which consumers and
6 service recipients are notified of the name, mailing address, and
7 telephone number of the corporation for the purpose of directing
8 complaints to the board or corporation.

9 (c) The corporation shall keep an information file about
10 each complaint filed with the corporation that the corporation has
11 authority to resolve.

12 (d) If a written complaint is filed with the corporation
13 that the corporation has authority to resolve, the corporation, at
14 least quarterly and until final disposition of the complaint, shall
15 notify the parties to the complaint of the status of the complaint
16 unless the notice would jeopardize an undercover investigation.
17 [The-board-may-appoint-employees-and-may-fix-their-compensation-and
18 prescribe-their-duties.]

19 SECTION 9. Chapter 57, Education Code, is amended by adding
20 Section 57.24 to read as follows:

21 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
22 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
23 may participate in a revenue-generating activity that is consistent
24 with the corporation's purpose if the board determines that the
25 revenue from the activity:

26 (1) is sufficient to cover the costs of the activity;
27 and

1 (2) will contribute to a reduction in the insurance
2 premium paid by students under Section 57.43 of this code.

3 (b) If, under Subsection (a) of this section, the board
4 authorizes the corporation to perform additional services, the
5 corporation may not require postsecondary educational institutions
6 or students to use those services unless required by state or
7 federal law.

8 (c) The corporation may not guarantee loans for other
9 states.

10 SECTION 10. Section 57.41(c), Education Code, is amended to
11 read as follows:

12 (c) The corporation shall, to the extent funds are
13 available, make loans to eligible students, as a lender of last
14 resort, under the following conditions:

15 (1) the borrower certifies and provides evidence to
16 the corporation that he/she has made an application to at least two
17 qualified lenders and was unable to obtain a guaranteed student
18 loan from a commercial lender and is not aware of any eligible
19 lender in this state that is willing to make a guaranteed student
20 loan;

21 (2) the borrower also certifies to the corporation
22 that he/she was unable to obtain a guaranteed student loan from the
23 Texas Higher Education Coordinating Board[7--Texas--College-and
24 University-System];

25 (3) the corporation certifies that it is not aware of
26 any eligible lender in this state that is willing to make a
27 guaranteed student loan; and

(4) the corporation must, to the extent a market is available, sell loans made as last resort loans within a reasonable period of time of the date of loan origination. This provision will not apply to any loans that cannot be sold at par.

The corporation shall maintain a separate file showing the name and address of the student receiving such a loan and the name and address of the involved educational institution.

SECTION 11. Section 57.43, Education Code, is amended to read as follows:

Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may impose and collect insurance premiums from student borrowers in an amount not to exceed the maximum allowable under the Higher Education Act of 1965, as amended.

(b) If the corporation imposes an insurance premium under this section, the corporation must impose the lowest insurance premium practicable that:

- (1) complies with federal requirements; and
- (2) does not jeopardize the corporation's financial viability.

SECTION 12. Section 57.45(a), Education Code, is amended to read as follows:

(a) In order to qualify as an eligible lender under this subchapter, the lender must:

(1) be an eligible lender for purposes of the Higher Education Act of 1965, as amended; and

(2) ~~[have--its--principal--place-of-business-in-Texas,~~
and

1 [3] enter into an agreement with the corporation for
2 participation in the program.

3 SECTION 13. Chapter 57, Education Code, is amended by adding
4 Section 57.461 to read as follows:

5 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
6 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

7 (1) an advisory committee that is composed of 15
8 members who represent the postsecondary educational institutions
9 that participate in the corporation's guaranteed student loan
10 program; and

11 (2) an advisory committee that is composed of 12
12 members including:

13 (A) one member who represents the Texas Higher
14 Education Coordinating Board; and

15 (B) 11 members who represent lenders that
16 participate in the corporation's guaranteed student loan program.

17 (b) The board shall appoint advisory committee members on
18 the recommendation of the executive director.

19 (c) The board may establish other advisory committees as the
20 board considers necessary.

21 (d) The board shall:

22 (1) specify each advisory committee's purpose and
23 duties; and

24 (2) require each committee to report to the board in a
25 manner specified by the board relating to each committee's
26 activities and work results.

27 SECTION 14. Section 57.47, Education Code, is amended by

amending Subsection (a) and adding Subsection (d) to read as follows:

(a) If a student borrower defaults on a loan and the corporation is required to honor the guarantee, the corporation or the Texas Higher Education Coordinating Board[7--Texas--College--and University--System;] shall bring suit against the defaulting party as soon as practicable.

(d) Notwithstanding any other law, if the corporation or the Texas Higher Education Coordinating Board brings suit against a defaulting party under this section, the corporation or the coordinating board, as appropriate, shall pay 50 percent of the statutory filing fee in effect on the date on which the suit is filed. If the defaulting borrower prevails in the suit filed under this section, the corporation or the coordinating board, as appropriate, shall pay the remaining 50 percent of the statutory filing fee on the date of the final disposition of the suit. If the corporation or coordinating board prevails in the suit:

(1) the judgment shall find the defaulting borrower liable to the corporation or the coordinating board, as appropriate, for the amount of the filing fee; and

(2) the corporation or coordinating board, as appropriate, shall pay the remaining 50 percent of the statutory filing fee not later than one week after the date on which the defaulting borrower pays to the corporation or coordinating board, as appropriate, the full amount, including the filing fee, for which the borrower is liable to the corporation or coordinating board.

SECTION 15. Chapter 57, Education Code, is amended by adding Section 57.481 to read as follows:

Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In this section, "loan default rate" means the rate at which student borrowers default on loans guaranteed by the corporation as determined by the corporation in compliance with federal guidelines.

(b) The corporation shall take an active role in coordinating, facilitating, and providing technical assistance on guaranteed student loan default prevention and reduction initiatives and programs in the state and shall work with the

1 appropriate state agencies and other entities, including eligible
2 postsecondary educational institutions, eligible lenders,
3 servicers, secondary markets, the Texas Higher Education
4 Coordinating Board, the Central Education Agency, and state
5 professional and occupational licensing agencies.

6 (c) The corporation shall maintain a system of communication
7 among the appropriate state agencies and entities to reduce loan
8 default claims.

9 (d) The corporation shall:

10 (1) calculate the loan default rates for the
11 postsecondary educational institutions that participate in the
12 corporation's guaranteed student loan program; and

13 (2) semiannually notify the postsecondary educational
14 institutions of those loan default rates.

15 (e) The corporation after consultation with eligible
16 institutions and lenders and consistent with federal regulations
17 and policies shall establish a loan default rate for a
18 postsecondary educational institution or lender that, if exceeded,
19 requires the corporation to intervene as provided by Subsection (f)
20 of this section or permits the corporation to intervene as provided
21 by Subsection (g) of this section.

22 (f) If a postsecondary educational institution's loan
23 default rate exceeds the rate established for the institution under
24 Subsection (e) of this section, the corporation shall conduct
25 program evaluations for the institution or provide technical
26 assistance to the institution, or both.

27 (g) If a postsecondary educational institution's or lender's

1 loan default rate exceeds the rate established under Subsection (e)
2 of this section, the corporation may require the institution or
3 lender, as a condition of eligibility to participate in the
4 corporation's guaranteed student loan program, to take one or more
5 actions, including to require:

6 (1) educational institutions to set tuition and fees
7 refund policies for students who do not complete their course of
8 study that:

9 (A) are more beneficial to students; and

10 (B) encourage repayment of student loans;

11 (2) lenders to disburse loans to students in more
12 installments than required by federal guidelines, to the extent
13 permitted by federal law and federal guidelines; or

14 (3) lenders to notify in clear language the affected
15 postsecondary educational institutions and student borrowers if
16 student loans are assigned or transferred to another eligible
17 lender.

18 (h) Before the corporation may require a postsecondary
19 educational institution or lender to take any action under
20 Subsection (g) of this section, the proposed action must be
21 reviewed by the postsecondary educational institution or lender
22 advisory committee established under Section 57.461 of this code,
23 as appropriate.

24 (i) The corporation shall develop, in consultation with the
25 Central Education Agency and each state agency that regulates
26 proprietary schools in this state, a comprehensive strategy to
27 reduce default rates at the regulated proprietary schools and to

1 improve the overall quality of the programs operated by these

schools. The corporation shall execute a memorandum of

understanding outlining the strategy with each state agency

regulating proprietary schools and shall establish procedures to

carry out its duties under this section. Each memorandum of

understanding shall be adopted by rule by each agency and shall:

6 (1) require the development and monitoring of
7 indicators that identify schools that have excessive loan default
8 rates, poor program performance, or both;

9 (2) require the sharing of specific information
10 relating to the indicators between the corporation and the agency;
11 and

12 (3) require the application of specific sanctions by
13 the corporation or the agency, as appropriate, to lower the default
14 rates, improve program performance, or both.

15 SECTION 16. Chapter 57, Education Code, is amended by adding
16 Section 57.491 to read as follows:

17 Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF
18 PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

19 (1) "License" means a certificate or similar form of
20 permission issued or renewed by a licensing agency and required by
21 law to engage in a profession or occupation.

22 (2) "Licensee" means a person to whom a licensing
23 agency issues a license.

24 (3) "Licensing agency" means a board, commission,
25 department, or other agency in the executive branch of state
26 government that issues or renews a license.

27 (b) The corporation shall identify the licensing agencies

1 subject to this section and provide written notice to those
2 agencies of the requirements prescribed by this section. Only
3 those licensing agencies that the corporation identifies and that
4 receive such notice are required to carry out this section.

5 (c) The corporation periodically shall:

6 (1) identify the persons who are in default on loans
7 guaranteed by the corporation; and

8 (2) provide a written list of the names of those
9 persons to the licensing agencies.

10 (d) A person who is in default on a loan may enter an
11 agreement with the corporation for repayment of a defaulted loan as
12 required under this section. The corporation shall provide the
13 person with a certificate certifying that the person has entered a
14 repayment agreement on the defaulted loan.

15 (e) A licensing agency shall not renew the license of a
16 licensee whose name is on the list provided by the corporation
17 under Subsection (c) of this section unless:

18 (1) the renewal is the first renewal following the
19 agency's receipt of the list including the licensee's name among
20 those in default; or

21 (2) the licensee presents to the agency a certificate
22 issued by the corporation certifying that:

23 (A) the licensee has entered a repayment
24 agreement on the defaulted loan; or

25 (B) the licensee is not in default on a loan
26 guaranteed by the corporation.

27 (f) A licensing agency may issue an initial license to a

1 person whose name is on the list provided by the corporation under
2 Subsection (c) of this section and who meets all other
3 qualifications for licensure, but shall not renew the license unless
4 the person presents to the agency a certificate issued by the
5 corporation certifying that:

6 (1) the licensee has entered a repayment agreement on
7 the defaulted loan; or

8 (2) the licensee is not in default on a loan
9 guaranteed by the corporation.

10 (g) A licensing agency shall not renew the license of a
11 licensee who defaults on a repayment agreement unless the person
12 presents to the agency a certificate issued by the corporation
13 certifying that:

14 (1) the licensee has entered another repayment
15 agreement on the defaulted loan; or

16 (2) the licensee is not in default on a loan
17 guaranteed by the corporation or on a repayment agreement.

18 (h) A licensing agency shall provide written notice of the
19 nonrenewal policies established under Subsections (e), (f), and (g)
20 of this section to each applicant for a license or for renewal of a
21 license. The corporation shall provide written notice of those
22 same policies on each loan application form provided by the
23 corporation and on each promissory note signed by a borrower.
24 Failure to provide the notice required by this subsection does not
25 affect the default status of a borrower or the prohibitions on
26 renewal of a license held by a person in default.

27 (i) A licensing agency shall provide an opportunity for a

1 hearing to a licensee before the agency takes action concerning the
2 nonrenewal of a license under this section.

3 (j) Each licensing agency shall adopt any rules necessary to
4 carry out the licensing agency's duties under this section.

5 (k) The board shall establish procedures to carry out the
6 corporation's duties under this section.

7 (l) This section does not apply to the State Securities
8 Board.

9 SECTION 17. Section/ 57.50, Education Code, is amended to
10 read as follows:

11 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
12 an eligible lender may discriminate against an eligible student in
13 making a loan or loan guarantee on the basis of race, age,
14 religion, [ineome7] or sex.

15 SECTION 18. Section 57.76, Education Code, is amended to
16 read as follows:

17 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
18 corporation shall have a fiscal audit performed by a certified
19 public accountant.

20 (b) A copy of the annual audit shall be submitted to the
21 state auditor for review. The state auditor may:

22 (1) examine any working papers from the annual audit;
23 and

24 (2) conduct a separate audit if, after reviewing the
25 independent audit, the state auditor considers a separate audit
26 necessary.

27 SECTION 19. Chapter 57, Education Code, is amended by adding

Section 57.761 to read as follows:

Sec. 57.761. INTERNAL AUDITOR. (a) The executive director shall appoint an internal auditor for the corporation. The appointment of an internal auditor must be approved by the board.

(b) The internal auditor shall report to the executive director. The board may require the internal auditor to submit directly to the board certain reports specified by the board.

(c) The board's executive committee, a subcommittee of the board, shall meet with the internal auditor on a regular basis.

(d) The internal auditor shall examine the corporation's system of internal controls and its system of identifying fixed and variable costs, including administrative costs.

SECTION 20. Section 82.022, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The supreme court may adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a loan guaranteed under Chapter 57, Education Code, by the Texas Guaranteed Student Loan Corporation.

SECTION 21. Sections 57.21 and 57.51, Education Code, are repealed.

SECTION 22. (a) A member of the board of the Texas Guaranteed Student Loan Corporation appointed by the governor or by the commissioner of higher education and serving on the board on the effective date of this Act serves until the member vacates the office or until the member's term expires. As vacancies occur or board members' terms expire, the governor shall appoint new members to achieve the membership scheme prescribed by Section 57.13(b),

1 Education Code, as amended by this Act. To fill the new membership
2 position created on the board by this Act's amendment of Section
3 57.13(b), the governor shall appoint the full-time student member
4 of the board for a term expiring January 31, 1993. The position on
5 the board filled through appointment by the chairman of the Texas
6 Higher Education Coordinating Board is abolished on the effective
7 date of this Act.

8 (b) The first policy statement required to be filed under
9 Section 57.19, Education Code, as amended by this Act, must be
10 filed before November 1, 1989.

11 (c) The CORPORATION and each agency regulating
12 proprietary schools shall adopt the memorandum of understanding
13 required under Section 57.481(i), Education Code, as added by this
14 Act, before September 1, 1990.

15 (d) A state agency that issues professional or occupational
16 licenses may not:

17 (1) take action concerning the nonrenewal of a license
18 before September 1, 1991, under Section 57.491, Education Code, as
19 added by this Act; or

20 (2) issue notice as provided by Section 57.491(h),
21 Education Code, as added by this Act, before September 1, 1990, to
22 persons who apply for a license.

23 SECTION 23. This Act takes effect September 1, 1989.

24 SECTION 24. The importance of this legislation and the
25 crowded condition of the calendars in both houses create an
26 emergency and an imperative public necessity that the
27 constitutional rule requiring bills to be read on three several

C.S.H.B. No. 715

1 days in each house be suspended, and this rule is hereby suspended.

Floor Amendment No. ①

By Guerrero

Amend the committee substitute for H.B. 715 by:

- 1) striking subsection (i) on page 14, lines 8 through 26, in its entirety;
- 2) striking subsection (c) on page 19, lines 23 through 26, in its entirety; and
- 3) re-lettering subsection (d) on page 19, line 27 as subsection (c).

ADOPTED

May
MAY 8 1989

Buddy Murray
Chief Clerk
House of Representatives

ENGROSSED
SECOND READING

H.B. No. 715

By Guerrero

A BILL TO BE ENTITLED

AN ACT

relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.11, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The corporation is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the corporation is abolished and this chapter expires September 1, 2001 [~~1989~~].

SECTION 3. Section 57.13, Education Code, is amended to read as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a board of 10 [~~11~~] directors appointed in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint nine [~~eight~~] members to the board. Five members must have knowledge of or experience in finance, including management of funds or business operations. One member must be a student who is

enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution. Three members must be ~~[persons--working--in-commercial-finance;--three--must--be]~~ members of the faculty or administration of an eligible postsecondary educational institution, as defined by Section 57.46 of this code~~[;--and--two--must--be--members--of--the--general--public--who--do--not--derive--a--majority--of--their--income--from--higher--education--or--commercial--finance]~~.

(c) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees. ~~[The--chairman--of--the--Coordinating--Board, Texas--College--and--University--System;--shall--appoint--a--member--of--the--coordinating--board--to--the--corporation--board--of--directors.]~~

~~[(d)--The--commissioner--of--higher--education--shall--appoint--a--student--enrolled--in--a--public--or--private--postsecondary--educational--institution--to--the--board.---Before--making--the--appointment,--the--commissioner---of---higher--education--shall--consult--with--higher--education--student--organizations--from--all--regions--of--the--state.]~~

(d) ~~[(e)]~~ The comptroller of public accounts or the comptroller's designee shall serve as an ex officio voting [a] member of the board.

(e) ~~[(f)]~~ Each member of the board must be a Texas resident.

SECTION 4. Chapter 57, Education Code, is amended by adding Section 57.131 to read as follows:

Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

1 a Texas trade association of institutions that originate or hold
2 student loans or a Texas trade association in the field of higher
3 education may not be a member of the board or a corporation
4 employee who is exempt from the corporation's position
5 classification schedule.

6 (b) A person who is the spouse of an officer, manager, or
7 paid consultant of a Texas trade association described by
8 Subsection (a) of this section may not be a member of the board and
9 may not be a corporation employee who is exempt from the
10 corporation's position classification schedule.

11 (c) A person may not serve as a member of the board or act
12 as the general counsel to the board if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the corporation.

16 (d) A person may not be one of the members of the board
17 required by Section 57.13(b) of this code to have knowledge of or
18 experience in finance if the person is a member of the board of
19 directors or an employee of an eligible lender that participates in
20 the guaranteed student loan program.

21 (e) For the purposes of this section, a Texas trade
22 association is a nonprofit, cooperative, and voluntarily joined
23 association of business or professional competitors in this state
24 designed to assist its members and its industry or profession in
25 dealing with mutual business or professional problems and in
26 promoting their common interest.

27 SECTION 5. Chapter 57, Education Code, is amended by adding

1 Section 57.141 to read as follows:

2 Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground
3 for removal from the board if a member:

4 (1) does not have at the time of appointment the
5 qualifications required by Section 57.13(b) of this code;

6 (2) does not maintain during service on the board the
7 qualifications required by Section 57.13(b) of this code;

8 (3) violates a prohibition established by Section
9 57.131 of this code;

10 (4) cannot discharge the member's duties for a
11 substantial part of the term for which the member is appointed
12 because of illness or disability; or

13 (5) is absent from more than half of the regularly
14 scheduled board meetings that the member is eligible to attend
15 during a calendar year unless the absence is excused by majority
16 vote of the board.

17 (b) The validity of an action of the board is not affected
18 by the fact that it was taken when a ground for removal of a board
19 member existed.

20 (c) If the executive director has knowledge that a potential
21 ground for removal exists, the executive director shall notify the
22 chairman of the board of the ground. The chairman shall then
23 notify the governor that a potential ground for removal exists.

24 SECTION 6. Section 57.18, Education Code, is amended to read
25 as follows:

26 Sec. 57.18. MEETINGS. (a) The board may meet as often as
27 necessary, but shall meet at least twice a year.

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees.

16 (d) The executive director or the executive director's
17 designee shall develop an intra-agency career ladder program. The
18 program shall require intra-agency postings of all nonentry level
19 positions concurrently with any public posting.

20 (e) The executive director or the executive director's
21 designee shall develop a system of annual performance evaluations.
22 All merit pay for corporation employees must be based on the system
23 established under this subsection.

24 (f) The executive director or the executive director's
25 designee shall prepare and maintain a written policy statement to
26 assure implementation of a program of equal employment opportunity
27 under which all personnel transactions are made without regard to

1 race, color, handicap, sex, religion, age, or national origin. The
2 policy statement must include:

3 (1) personnel policies, including policies relating to
4 recruitment, evaluation, selection, appointment, training, and
5 promotion of personnel;

6 (2) a comprehensive analysis of the corporation's work
7 force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of
9 significant underuse in the corporation's work force of all persons
10 for whom federal or state guidelines encourage a more equitable
11 balance; and

12 (4) reasonable methods to appropriately address those
13 areas of significant underuse.

14 (g) A policy statement prepared under Subsection (f) of this
15 section must cover an annual period, be updated at least annually,
16 and be filed with the governor's office.

17 (h) The governor's office shall deliver a biennial report to
18 the legislature based on the information received under Subsection
19 (g) of this section. The report may be made separately or as part
20 of other biennial reports made to the legislature.

21 (i) The board shall adopt policies that clearly define the
22 respective responsibilities of the governing body of the
23 corporation and the staff of the corporation.

24 SECTION 8. Section 57.20, Education Code, is amended to read
25 as follows:

26 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
27 [EMPLOYEES]. (a) The board shall prepare information of public

1 interest describing the functions of the board and corporation and
2 the procedures by which complaints are filed with and resolved by
3 the board. The corporation shall make the information available to
4 the public and appropriate state agencies.

5 (b) The board shall establish methods by which consumers and
6 service recipients are notified of the name, mailing address, and
7 telephone number of the corporation for the purpose of directing
8 complaints to the board or corporation.

9 (c) The corporation shall keep an information file about
10 each complaint filed with the corporation that the corporation has
11 authority to resolve.

12 (d) If a written complaint is filed with the corporation
13 that the corporation has authority to resolve, the corporation, at
14 least quarterly and until final disposition of the complaint, shall
15 notify the parties to the complaint of the status of the complaint
16 unless the notice would jeopardize an undercover investigation.
17 [The-board-may-appoint-employees-and-may-fix-their-compensation-and
18 prescribe-their-duties.]

19 SECTION 9. Chapter 57, Education Code, is amended by adding
20 Section 57.24 to read as follows:

21 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
22 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
23 may participate in a revenue-generating activity that is consistent
24 with the corporation's purpose if the board determines that the
25 revenue from the activity:

26 (1) is sufficient to cover the costs of the activity;
27 and

1 (2) will contribute to a reduction in the insurance
2 premium paid by students under Section 57.43 of this code.

3 (b) If, under Subsection (a) of this section, the board
4 authorizes the corporation to perform additional services, the
5 corporation may not require postsecondary educational institutions
6 or students to use those services unless required by state or
7 federal law.

8 (c) The corporation may not guarantee loans for other
9 states.

10 SECTION 10. Section 57.41(c), Education Code, is amended to
11 read as follows:

12 (c) The corporation shall, to the extent funds are
13 available, make loans to eligible students, as a lender of last
14 resort, under the following conditions:

15 (1) the borrower certifies and provides evidence to
16 the corporation that he/she has made an application to at least two
17 qualified lenders and was unable to obtain a guaranteed student
18 loan from a commercial lender and is not aware of any eligible
19 lender in this state that is willing to make a guaranteed student
20 loan;

21 (2) the borrower also certifies to the corporation
22 that he/she was unable to obtain a guaranteed student loan from the
23 Texas Higher Education Coordinating Board[7--Texas--College--and
24 University-System];

25 (3) the corporation certifies that it is not aware of
26 any eligible lender in this state that is willing to make a
27 guaranteed student loan; and

1 (4) the corporation must, to the extent a market is
2 available, sell loans made as last resort loans within a reasonable
3 period of time of the date of loan origination. This provision
4 will not apply to any loans that cannot be sold at par.

5 The corporation shall maintain a separate file showing the name and
6 address of the student receiving such a loan and the name and
7 address of the involved educational institution.

8 SECTION 11. Section 57.43, Education Code, is amended to
9 read as follows:

10 Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may
11 impose and collect insurance premiums from student borrowers in an
12 amount not to exceed the maximum allowable under the Higher
13 Education Act of 1965, as amended.

14 (b) If the corporation imposes an insurance premium under
15 this section, the corporation must impose the lowest insurance
16 premium practicable that:

- 17 (1) complies with federal requirements; and
18 (2) does not jeopardize the corporation's financial
19 viability.

20 SECTION 12. Section 57.45(a), Education Code, is amended to
21 read as follows:

22 (a) In order to qualify as an eligible lender under this
23 subchapter, the lender must:

24 (1) be an eligible lender for purposes of the Higher
25 Education Act of 1965, as amended; and

26 (2) [~~have-its-principal-place-of-business--in--Texas,~~
27 ~~and~~

1 [~~3~~] enter into an agreement with the corporation for
2 participation in the program.

3 SECTION 13. Chapter 57, Education Code, is amended by adding
4 Section 57.461 to read as follows:

5 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
6 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

7 (1) an advisory committee that is composed of 15
8 members who represent the postsecondary educational institutions
9 that participate in the corporation's guaranteed student loan
10 program; and

11 (2) an advisory committee that is composed of 12
12 members including:

13 (A) one member who represents the Texas Higher
14 Education Coordinating Board; and

15 (B) 11 members who represent lenders that
16 participate in the corporation's guaranteed student loan program.

17 (b) The board shall appoint advisory committee members on
18 the recommendation of the executive director.

19 (c) The board may establish other advisory committees as the
20 board considers necessary.

21 (d) The board shall:

22 (1) specify each advisory committee's purpose and
23 duties; and

24 (2) require each committee to report to the board in a
25 manner specified by the board relating to each committee's
26 activities and work results.

27 SECTION 14. Section 57.47, Education Code, is amended by

amending Subsection (a) and adding Subsection (d) to read as follows:

(a) If a student borrower defaults on a loan and the corporation is required to honor the guarantee, the corporation or the Texas Higher Education Coordinating Board~~[7-Texas-College-and University-System]~~ shall bring suit against the defaulting party as soon as practicable.

(d) Notwithstanding any other law, if the corporation or the Texas Higher Education Coordinating Board brings suit against a defaulting party under this section, the corporation or the coordinating board, as appropriate, shall pay 50 percent of the statutory filing fee in effect on the date on which the suit is filed. If the defaulting borrower prevails in the suit filed under this section, the corporation or the coordinating board, as appropriate, shall pay the remaining 50 percent of the statutory filing fee on the date of the final disposition of the suit. If the corporation or coordinating board prevails in the suit:

(1) the judgment shall find the defaulting borrower liable to the corporation or the coordinating board, as appropriate, for the amount of the filing fee; and

(2) the corporation or coordinating board, as appropriate, shall pay the remaining 50 percent of the statutory filing fee not later than one week after the date on which the defaulting borrower pays to the corporation or coordinating board, as appropriate, the full amount, including the filing fee, for which the borrower is liable to the corporation or coordinating board.

1 SECTION 15. Chapter 57, Education Code, is amended by adding
2 Section 57.481 to read as follows:

3 Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In
4 this section, "loan default rate" means the rate at which student
5 borrowers default on loans guaranteed by the corporation as
6 determined by the corporation in compliance with federal
7 guidelines.

8 (b) The corporation shall take an active role in
9 coordinating, facilitating, and providing technical assistance on
10 guaranteed student loan default prevention and reduction
11 initiatives and programs in the state and shall work with the
12 appropriate state agencies and other entities, including eligible
13 postsecondary educational institutions, eligible lenders,
14 servicers, secondary markets, the Texas Higher Education
15 Coordinating Board, the Central Education Agency, and state
16 professional and occupational licensing agencies.

17 (c) The corporation shall maintain a system of communication
18 among the appropriate state agencies and entities to reduce loan
19 default claims.

20 (d) The corporation shall:

21 (1) calculate the loan default rates for the
22 postsecondary educational institutions that participate in the
23 corporation's guaranteed student loan program; and

24 (2) semiannually notify the postsecondary educational
25 institutions of those loan default rates.

26 (e) The corporation after consultation with eligible
27 institutions and lenders and consistent with federal regulations

1 and policies shall establish a loan default rate for a
 2 postsecondary educational institution or lender that, if exceeded,
 3 requires the corporation to intervene as provided by Subsection (f)
 4 of this section or permits the corporation to intervene as provided
 5 by Subsection (g) of this section.

6 (f) If a postsecondary educational institution's loan
 7 default rate exceeds the rate established for the institution under
 8 Subsection (e) of this section, the corporation shall conduct
 9 program evaluations for the institution or provide technical
 10 assistance to the institution, or both.

11 (g) If a postsecondary educational institution's or lender's
 12 loan default rate exceeds the rate established under Subsection (e)
 13 of this section, the corporation may require the institution or
 14 lender, as a condition of eligibility to participate in the
 15 corporation's guaranteed student loan program, to take one or more
 16 actions, including to require:

17 (1) educational institutions to set tuition and fees
 18 refund policies for students who do not complete their course of
 19 study that:

20 (A) are more beneficial to students; and

21 (B) encourage repayment of student loans;

22 (2) lenders to disburse loans to students in more
 23 installments than required by federal guidelines, to the extent
 24 permitted by federal law and federal guidelines; or

25 (3) lenders to notify in clear language the affected
 26 postsecondary educational institutions and student borrowers if
 27 student loans are assigned or transferred to another eligible

1 lender.

2 (h) Before the corporation may require a postsecondary
3 educational institution or lender to take any action under
4 Subsection (g) of this section, the proposed action must be
5 reviewed by the postsecondary educational institution or lender
6 advisory committee established under Section 57.461 of this code,
7 as appropriate.

8 SECTION 16. Chapter 57, Education Code, is amended by adding
9 Section 57.491 to read as follows:

10 Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF
11 PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

12 (1) "License" means a certificate or similar form of
13 permission issued or renewed by a licensing agency and required by
14 law to engage in a profession or occupation.

15 (2) "Licensee" means a person to whom a licensing
16 agency issues a license.

17 (3) "Licensing agency" means a board, commission,
18 department, or other agency in the executive branch of state
19 government that issues or renews a license.

20 (b) The corporation shall identify the licensing agencies
21 subject to this section and provide written notice to those
22 agencies of the requirements prescribed by this section. Only
23 those licensing agencies that the corporation identifies and that
24 receive such notice are required to carry out this section.

25 (c) The corporation periodically shall:

26 (1) identify the persons who are in default on loans
27 guaranteed by the corporation; and

1 (2) provide a written list of the names of those
2 persons to the licensing agencies.

3 (d) A person who is in default on a loan may enter an
4 agreement with the corporation for repayment of a defaulted loan as
5 required under this section. The corporation shall provide the
6 person with a certificate certifying that the person has entered a
7 repayment agreement on the defaulted loan.

8 (e) A licensing agency shall not renew the license of a
9 licensee whose name is on the list provided by the corporation
10 under Subsection (c) of this section unless:

11 (1) the renewal is the first renewal following the
12 agency's receipt of the list including the licensee's name among
13 those in default; or

14 (2) the licensee presents to the agency a certificate
15 issued by the corporation certifying that:

16 (A) the licensee has entered a repayment
17 agreement on the defaulted loan; or

18 (B) the licensee is not in default on a loan
19 guaranteed by the corporation.

20 (f) A licensing agency may issue an initial license to a
21 person whose name is on the list provided by the corporation under
22 Subsection (c) of this section and who meets all other
23 qualifications for licensure, but shall not renew the license
24 unless the person presents to the agency a certificate issued by
25 the corporation certifying that:

26 (1) the licensee has entered a repayment agreement on
27 the defaulted loan; or

1 (2) the licensee is not in default on a loan
2 guaranteed by the corporation.

3 (g) A licensing agency shall not renew the license of a
4 licensee who defaults on a repayment agreement unless the person
5 presents to the agency a certificate issued by the corporation
6 certifying that:

7 (1) the licensee has entered another repayment
8 agreement on the defaulted loan; or

9 (2) the licensee is not in default on a loan
10 guaranteed by the corporation or on a repayment agreement.

11 (h) A licensing agency shall provide written notice of the
12 nonrenewal policies established under Subsections (e), (f), and (g)
13 of this section to each applicant for a license or for renewal of a
14 license. The corporation shall provide written notice of those
15 same policies on each loan application form provided by the
16 corporation and on each promissory note signed by a borrower.
17 Failure to provide the notice required by this subsection does not
18 affect the default status of a borrower or the prohibitions on
19 renewal of a license held by a person in default.

20 (i) A licensing agency shall provide an opportunity for a
21 hearing to a licensee before the agency takes action concerning the
22 nonrenewal of a license under this section.

23 (j) Each licensing agency shall adopt any rules necessary to
24 carry out the licensing agency's duties under this section.

25 (k) The board shall establish procedures to carry out the
26 corporation's duties under this section.

27 (l) This section does not apply to the State Securities

1 Board.

2 SECTION 17. Section 57.50, Education Code, is amended to
3 read as follows:

4 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
5 an eligible lender may discriminate against an eligible student in
6 making a loan or loan guarantee on the basis of race, age,
7 religion, [~~income~~] or sex.

8 SECTION 18. Section 57.76, Education Code, is amended to
9 read as follows:

10 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
11 corporation shall have a fiscal audit performed by a certified
12 public accountant.

13 (b) A copy of the annual audit shall be submitted to the
14 state auditor for review. The state auditor may:

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16 and

17 (2) conduct a separate audit if, after reviewing the
18 independent audit, the state auditor considers a separate audit
19 necessary.

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25 (b) The internal auditor shall report to the executive
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27 directly to the board certain reports specified by the board.

1 (c) The board's executive committee, a subcommittee of the
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3 (d) The internal auditor shall examine the corporation's
4 system of internal controls and its system of identifying fixed and
5 variable costs, including administrative costs.

6 SECTION 20. Section 82.022, Government Code, is amended by
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8 (c) The supreme court may adopt rules relating to the
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10 guaranteed under Chapter 57, Education Code, by the Texas
11 Guaranteed Student Loan Corporation.

12 SECTION 21. Sections 57.21 and 57.51, Education Code, are
13 repealed.

14 SECTION 22. (a) A member of the board of the Texas
15 Guaranteed Student Loan Corporation appointed by the governor or by
16 the commissioner of higher education and serving on the board on
17 the effective date of this Act serves until the member vacates the
18 office or until the member's term expires. As vacancies occur or
19 board members' terms expire, the governor shall appoint new members
20 to achieve the membership scheme prescribed by Section 57.13(b),
21 Education Code, as amended by this Act. To fill the new membership
22 position created on the board by this Act's amendment of Section
23 57.13(b), the governor shall appoint the full-time student member
24 of the board for a term expiring January 31, 1993. The position on
25 the board filled through appointment by the chairman of the Texas
26 Higher Education Coordinating Board is abolished on the effective
27 date of this Act.

1 (b) The first policy statement required to be filed under
2 Section 57.19, Education Code, as amended by this Act, must be
3 filed before November 1, 1989.

4 (c) A state agency that issues professional or occupational
5 licenses may not:

6 (1) take action concerning the nonrenewal of a license
7 before September 1, 1991, under Section 57.491, Education Code, as
8 added by this Act; or

9 (2) issue notice as provided by Section 57.491(h),
10 Education Code, as added by this Act, before September 1, 1990, to
11 persons who apply for a license.

12 SECTION 23. This Act takes effect September 1, 1989.

13 SECTION 24. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended.

HOUSE ENGROSSMENT

CD MW-3 EN 847

By Guerrero

H.B. No. 715

A BILL TO BE ENTITLED

AN ACT

relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.11, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The corporation is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the corporation is abolished and this chapter expires September 1, 2001 [~~1989~~].

SECTION 3. Section 57.13, Education Code, is amended to read as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a board of 10 [~~11~~] directors appointed in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint nine [~~eight~~] members to the board. Five members must have knowledge of or experience in finance, including management of funds or business operations. One member must be a student who is

1 enrolled at a postsecondary educational institution for the number
 2 of credit hours required by the institution to be classified as a
 3 full-time student of the institution. Three members must be
 4 [~~persons--working--in-commercial-finance;--three-must-be~~] members of
 5 the faculty or administration of an eligible postsecondary
 6 educational institution, as defined by Section 57.46 of this code[
 7 ~~and--two--must-be-members-of-the-general-public-who-do-not-derive-a~~
 8 ~~majority-of--their--income--from--higher--education--or--commercial~~
 9 ~~finance)].~~

10 (c) Appointments to the board shall be made without regard
 11 to the race, color, handicap, sex, religion, age, or national
 12 origin of the appointees. [~~The-chairman-of-the-Coordinating-Board,~~
 13 ~~Texas--College-and-University-System;--shall-appoint-a-member-of-the~~
 14 ~~coordinating-board-to-the-corporation-board-of-directors-~~

15 [~~(d)--The-commissioner-of-higher-education--shall--appoint--a~~
 16 ~~student--enrolled--in-a-public-or-private-postsecondary-educational~~
 17 ~~institution-to-the--board;---Before--making--the--appointment;--the~~
 18 ~~commissioner---of---higher--education--shall--consult--with--higher~~
 19 ~~education-student-organizations-from-all-regions-of-the-state-]~~

20 (d) [~~(e)~~] The comptroller of public accounts or the
 21 comptroller's designee shall serve as an ex officio voting [a]
 22 member of the board.

23 (e) [~~(f)~~] Each member of the board must be a Texas resident.

24 SECTION 4. Chapter 57, Education Code, is amended by adding
 25 Section 57.131 to read as follows:

26 Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP,
 27 AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

1 a Texas trade association of institutions that originate or hold
2 student loans or a Texas trade association in the field of higher
3 education may not be a member of the board or a corporation
4 employee who is exempt from the corporation's position
5 classification schedule.

6 (b) A person who is the spouse of an officer, manager, or
7 paid consultant of a Texas trade association described by
8 Subsection (a) of this section may not be a member of the board and
9 may not be a corporation employee who is exempt from the
10 corporation's position classification schedule.

11 (c) A person may not serve as a member of the board or act
12 as the general counsel to the board if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the corporation.

16 (d) A person may not be one of the members of the board
17 required by Section 57.13(b) of this code to have knowledge of or
18 experience in finance if the person is a member of the board of
19 directors or an employee of an eligible lender that participates in
20 the guaranteed student loan program.

21 (e) For the purposes of this section, a Texas trade
22 association is a nonprofit, cooperative, and voluntarily joined
23 association of business or professional competitors in this state
24 designed to assist its members and its industry or profession in
25 dealing with mutual business or professional problems and in
26 promoting their common interest.

27 SECTION 5. Chapter 57, Education Code, is amended by adding

Section 57.141 to read as follows:

Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 57.13(b) of this code;

(2) does not maintain during service on the board the qualifications required by Section 57.13(b) of this code;

(3) violates a prohibition established by Section 57.131 of this code;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a board member existed.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

SECTION 6. Section 57.18, Education Code, is amended to read as follows:

Sec. 57.18. MEETINGS. (a) The board may meet as often as necessary, but shall meet at least twice a year.

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees.

16 (d) The executive director or the executive director's
17 designee shall develop an intra-agency career ladder program. The
18 program shall require intra-agency postings of all nonentry level
19 positions concurrently with any public posting.

20 (e) The executive director or the executive director's
21 designee shall develop a system of annual performance evaluations.
22 All merit pay for corporation employees must be based on the system
23 established under this subsection.

24 (f) The executive director or the executive director's
25 designee shall prepare and maintain a written policy statement to
26 assure implementation of a program of equal employment opportunity
27 under which all personnel transactions are made without regard to

1 race, color, handicap, sex, religion, age, or national origin. The
2 policy statement must include:

3 (1) personnel policies, including policies relating to
4 recruitment, evaluation, selection, appointment, training, and
5 promotion of personnel;

6 (2) a comprehensive analysis of the corporation's work
7 force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of
9 significant underuse in the corporation's work force of all persons
10 for whom federal or state guidelines encourage a more equitable
11 balance; and

12 (4) reasonable methods to appropriately address those
13 areas of significant underuse.

14 (g) A policy statement prepared under Subsection (f) of this
15 section must cover an annual period, be updated at least annually,
16 and be filed with the governor's office.

17 (h) The governor's office shall deliver a biennial report to
18 the legislature based on the information received under Subsection
19 (g) of this section. The report may be made separately or as part
20 of other biennial reports made to the legislature.

21 (i) The board shall adopt policies that clearly define the
22 respective responsibilities of the governing body of the
23 corporation and the staff of the corporation.

24 SECTION 8. Section 57.20, Education Code, is amended to read
25 as follows:

26 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
27 [EMPLOYEES]. (a) The board shall prepare information of public

interest describing the functions of the board and corporation and the procedures by which complaints are filed with and resolved by the board. The corporation shall make the information available to the public and appropriate state agencies.

(b) The board shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the corporation for the purpose of directing complaints to the board or corporation.

(c) The corporation shall keep an information file about each complaint filed with the corporation that the corporation has authority to resolve.

(d) If a written complaint is filed with the corporation that the corporation has authority to resolve, the corporation, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.
~~[The board may appoint employees and may fix their compensation and prescribe their duties.]~~

SECTION 9. Chapter 57, Education Code, is amended by adding Section 57.24 to read as follows:

Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation may participate in a revenue-generating activity that is consistent with the corporation's purpose if the board determines that the revenue from the activity:

(1) is sufficient to cover the costs of the activity;
and

1 (2) will contribute to a reduction in the insurance
2 premium paid by students under Section 57.43 of this code.

3 (b) If, under Subsection (a) of this section, the board
4 authorizes the corporation to perform additional services, the
5 corporation may not require postsecondary educational institutions
6 or students to use those services unless required by state or
7 federal law.

8 (c) The corporation may not guarantee loans for other
9 states.

10 SECTION 10. Section 57.41(c), Education Code, is amended to
11 read as follows:

12 (c) The corporation shall, to the extent funds are
13 available, make loans to eligible students, as a lender of last
14 resort, under the following conditions:

15 (1) the borrower certifies and provides evidence to
16 the corporation that he/she has made an application to at least two
17 qualified lenders and was unable to obtain a guaranteed student
18 loan from a commercial lender and is not aware of any eligible
19 lender in this state that is willing to make a guaranteed student
20 loan;

21 (2) the borrower also certifies to the corporation
22 that he/she was unable to obtain a guaranteed student loan from the
23 Texas Higher Education Coordinating Board[~~7--Texas--College--and~~
24 ~~University-System~~];

25 (3) the corporation certifies that it is not aware of
26 any eligible lender in this state that is willing to make a
27 guaranteed student loan; and

1 (4) the corporation must, to the extent a market is
2 available, sell loans made as last resort loans within a reasonable
3 period of time of the date of loan origination. This provision
4 will not apply to any loans that cannot be sold at par.

5 The corporation shall maintain a separate file showing the name and
6 address of the student receiving such a loan and the name and
7 address of the involved educational institution.

8 SECTION 11. Section 57.43, Education Code, is amended to
9 read as follows:

10 Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may
11 impose and collect insurance premiums from student borrowers in an
12 amount not to exceed the maximum allowable under the Higher
13 Education Act of 1965, as amended.

14 (b) If the corporation imposes an insurance premium under
15 this section, the corporation must impose the lowest insurance
16 premium practicable that:

17 (1) complies with federal requirements; and

18 (2) does not jeopardize the corporation's financial
19 viability.

20 SECTION 12. Section 57.45(a), Education Code, is amended to
21 read as follows:

22 (a) In order to qualify as an eligible lender under this
23 subchapter, the lender must:

24 (1) be an eligible lender for purposes of the Higher
25 Education Act of 1965, as amended; and

26 (2) ~~[have-its-principal-place-of--business--in--Texas,~~
27 and

1 [~~3~~] enter into an agreement with the corporation for
2 participation in the program.

3 SECTION 13. Chapter 57, Education Code, is amended by adding
4 Section 57.461 to read as follows:

5 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
6 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

7 (1) an advisory committee that is composed of 15
8 members who represent the postsecondary educational institutions
9 that participate in the corporation's guaranteed student loan
10 program; and

11 (2) an advisory committee that is composed of 12
12 members including:

13 (A) one member who represents the Texas Higher
14 Education Coordinating Board; and

15 (B) 11 members who represent lenders that
16 participate in the corporation's guaranteed student loan program.

17 (b) The board shall appoint advisory committee members on
18 the recommendation of the executive director.

19 (c) The board may establish other advisory committees as the
20 board considers necessary.

21 (d) The board shall:

22 (1) specify each advisory committee's purpose and
23 duties; and

24 (2) require each committee to report to the board in a
25 manner specified by the board relating to each committee's
26 activities and work results.

27 SECTION 14. Section 57.47, Education Code, is amended by

amending Subsection (a) and adding Subsection (d) to read as follows:

(a) If a student borrower defaults on a loan and the corporation is required to honor the guarantee, the corporation or the Texas Higher Education Coordinating Board~~[7--Texas-College-and University-System]~~ shall bring suit against the defaulting party as soon as practicable.

(d) Notwithstanding any other law, if the corporation or the Texas Higher Education Coordinating Board brings suit against a defaulting party under this section, the corporation or the coordinating board, as appropriate, shall pay 50 percent of the statutory filing fee in effect on the date on which the suit is filed. If the defaulting borrower prevails in the suit filed under this section, the corporation or the coordinating board, as appropriate, shall pay the remaining 50 percent of the statutory filing fee on the date of the final disposition of the suit. If the corporation or coordinating board prevails in the suit:

(1) the judgment shall find the defaulting borrower liable to the corporation or the coordinating board, as appropriate, for the amount of the filing fee; and

(2) the corporation or coordinating board, as appropriate, shall pay the remaining 50 percent of the statutory filing fee not later than one week after the date on which the defaulting borrower pays to the corporation or coordinating board, as appropriate, the full amount, including the filing fee, for which the borrower is liable to the corporation or coordinating board.

1 SECTION 15. Chapter 57, Education Code, is amended by adding
2 Section 57.481 to read as follows:

3 Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In
4 this section, "loan default rate" means the rate at which student
5 borrowers default on loans guaranteed by the corporation as
6 determined by the corporation in compliance with federal
7 guidelines.

8 (b) The corporation shall take an active role in
9 coordinating, facilitating, and providing technical assistance on
10 guaranteed student loan default prevention and reduction
11 initiatives and programs in the state and shall work with the
12 appropriate state agencies and other entities, including eligible
13 postsecondary educational institutions, eligible lenders,
14 servicers, secondary markets, the Texas Higher Education
15 Coordinating Board, the Central Education Agency, and state
16 professional and occupational licensing agencies.

17 (c) The corporation shall maintain a system of communication
18 among the appropriate state agencies and entities to reduce loan
19 default claims.

20 (d) The corporation shall:

21 (1) calculate the loan default rates for the
22 postsecondary educational institutions that participate in the
23 corporation's guaranteed student loan program; and

24 (2) semiannually notify the postsecondary educational
25 institutions of those loan default rates.

26 (e) The corporation after consultation with eligible
27 institutions and lenders and consistent with federal regulations

1 and policies shall establish a loan default rate for a
 2 postsecondary educational institution or lender that, if exceeded,
 3 requires the corporation to intervene as provided by Subsection (f)
 4 of this section or permits the corporation to intervene as provided
 5 by Subsection (g) of this section.

6 (f) If a postsecondary educational institution's loan
 7 default rate exceeds the rate established for the institution under
 8 Subsection (e) of this section, the corporation shall conduct
 9 program evaluations for the institution or provide technical
 10 assistance to the institution, or both.

11 (g) If a postsecondary educational institution's or lender's
 12 loan default rate exceeds the rate established under Subsection (e)
 13 of this section, the corporation may require the institution or
 14 lender, as a condition of eligibility to participate in the
 15 corporation's guaranteed student loan program, to take one or more
 16 actions, including to require:

17 (1) educational institutions to set tuition and fees
 18 refund policies for students who do not complete their course of
 19 study that:

20 (A) are more beneficial to students; and

21 (B) encourage repayment of student loans;

22 (2) lenders to disburse loans to students in more
 23 installments than required by federal guidelines, to the extent
 24 permitted by federal law and federal guidelines; or

25 (3) lenders to notify in clear language the affected
 26 postsecondary educational institutions and student borrowers if
 27 student loans are assigned or transferred to another eligible

1 lender.

2 (h) Before the corporation may require a postsecondary
 3 educational institution or lender to take any action under
 4 Subsection (g) of this section, the proposed action must be
 5 reviewed by the postsecondary educational institution or lender
 6 advisory committee established under Section 57.461 of this code,
 7 as appropriate.

8 SECTION 16. Chapter 57, Education Code, is amended by adding
 9 Section 57.491 to read as follows:

10 Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF
 11 PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

12 (1) "License" means a certificate or similar form of
 13 permission issued or renewed by a licensing agency and required by
 14 law to engage in a profession or occupation.

15 (2) "Licensee" means a person to whom a licensing
 16 agency issues a license.

17 (3) "Licensing agency" means a board, commission,
 18 department, or other agency in the executive branch of state
 19 government that issues or renews a license.

20 (b) The corporation shall identify the licensing agencies
 21 subject to this section and provide written notice to those
 22 agencies of the requirements prescribed by this section. Only
 23 those licensing agencies that the corporation identifies and that
 24 receive such notice are required to carry out this section.

25 (c) The corporation periodically shall:

26 (1) identify the persons who are in default on loans
 27 guaranteed by the corporation; and

1 (2) provide a written list of the names of those
2 persons to the licensing agencies.

3 (d) A person who is in default on a loan may enter an
4 agreement with the corporation for repayment of a defaulted loan as
5 required under this section. The corporation shall provide the
6 person with a certificate certifying that the person has entered a
7 repayment agreement on the defaulted loan.

8 (e) A licensing agency shall not renew the license of a
9 licensee whose name is on the list provided by the corporation
10 under Subsection (c) of this section unless:

11 (1) the renewal is the first renewal following the
12 agency's receipt of the list including the licensee's name among
13 those in default; or

14 (2) the licensee presents to the agency a certificate
15 issued by the corporation certifying that:

16 (A) the licensee has entered a repayment
17 agreement on the defaulted loan; or

18 (B) the licensee is not in default on a loan
19 guaranteed by the corporation.

20 (f) A licensing agency may issue an initial license to a
21 person whose name is on the list provided by the corporation under
22 Subsection (c) of this section and who meets all other
23 qualifications for licensure, but shall not renew the license
24 unless the person presents to the agency a certificate issued by
25 the corporation certifying that:

26 (1) the licensee has entered a repayment agreement on
27 the defaulted loan; or

1 (2) the licensee is not in default on a loan
2 guaranteed by the corporation.

3 (g) A licensing agency shall not renew the license of a
4 licensee who defaults on a repayment agreement unless the person
5 presents to the agency a certificate issued by the corporation
6 certifying that:

7 (1) the licensee has entered another repayment
8 agreement on the defaulted loan; or

9 (2) the licensee is not in default on a loan
10 guaranteed by the corporation or on a repayment agreement.

11 (h) A licensing agency shall provide written notice of the
12 nonrenewal policies established under Subsections (e), (f), and (g)
13 of this section to each applicant for a license or for renewal of a
14 license. The corporation shall provide written notice of those
15 same policies on each loan application form provided by the
16 corporation and on each promissory note signed by a borrower.
17 Failure to provide the notice required by this subsection does not
18 affect the default status of a borrower or the prohibitions on
19 renewal of a license held by a person in default.

20 (i) A licensing agency shall provide an opportunity for a
21 hearing to a licensee before the agency takes action concerning the
22 nonrenewal of a license under this section.

23 (j) Each licensing agency shall adopt any rules necessary to
24 carry out the licensing agency's duties under this section.

25 (k) The board shall establish procedures to carry out the
26 corporation's duties under this section.

27 (l) This section does not apply to the State Securities

1 Board.

2 SECTION 17. Section 57.50, Education Code, is amended to
3 read as follows:

4 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
5 an eligible lender may discriminate against an eligible student in
6 making a loan or loan guarantee on the basis of race, age,
7 religion, [~~income~~,] or sex.

8 SECTION 18. Section 57.76, Education Code, is amended to
9 read as follows:

10 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
11 corporation shall have a fiscal audit performed by a certified
12 public accountant.

13 (b) A copy of the annual audit shall be submitted to the
14 state auditor for review. The state auditor may:

15 (1) examine any working papers from the annual audit;
16 and

17 (2) conduct a separate audit if, after reviewing the
18 independent audit, the state auditor considers a separate audit
19 necessary.

20 SECTION 19. Chapter 57, Education Code, is amended by adding
21 Section 57.761 to read as follows:

22 Sec. 57.761. INTERNAL AUDITOR. (a) The executive director
23 shall appoint an internal auditor for the corporation. The
24 appointment of an internal auditor must be approved by the board.

25 (b) The internal auditor shall report to the executive
26 director. The board may require the internal auditor to submit
27 directly to the board certain reports specified by the board.

1 (c) The board's executive committee, a subcommittee of the
2 board, shall meet with the internal auditor on a regular basis.

3 (d) The internal auditor shall examine the corporation's
4 system of internal controls and its system of identifying fixed and
5 variable costs, including administrative costs.

6 SECTION 20. Section 82.022, Government Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) The supreme court may adopt rules relating to the
9 nonrenewal of the license of a lawyer who is in default on a loan
10 guaranteed under Chapter 57, Education Code, by the Texas
11 Guaranteed Student Loan Corporation.

12 SECTION 21. Sections 57.21 and 57.51, Education Code, are
13 repealed.

14 SECTION 22. (a) A member of the board of the Texas
15 Guaranteed Student Loan Corporation appointed by the governor or by
16 the commissioner of higher education and serving on the board on
17 the effective date of this Act serves until the member vacates the
18 office or until the member's term expires. As vacancies occur or
19 board members' terms expire, the governor shall appoint new members
20 to achieve the membership scheme prescribed by Section 57.13(b),
21 Education Code, as amended by this Act. To fill the new membership
22 position created on the board by this Act's amendment of Section
23 57.13(b), the governor shall appoint the full-time student member
24 of the board for a term expiring January 31, 1993. The position on
25 the board filled through appointment by the chairman of the Texas
26 Higher Education Coordinating Board is abolished on the effective
27 date of this Act.

1 (b) The first policy statement required to be filed under
2 Section 57.19, Education Code, as amended by this Act, must be
3 filed before November 1, 1989.

4 (c) A state agency that issues professional or occupational
5 licenses may not:

6 (1) take action concerning the nonrenewal of a license
7 before September 1, 1991, under Section 57.491, Education Code, as
8 added by this Act; or

9 (2) issue notice as provided by Section 57.491(h),
10 Education Code, as added by this Act, before September 1, 1990, to
11 persons who apply for a license.

12 SECTION 23. This Act takes effect September 1, 1989.

13 SECTION 24. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended.

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 25, 1989

TO: Honorable Bruce Gibson, Chair
Committee on Government Organization
House of Representatives
Austin, Texas

In Re: Committee Substitute
for House Bill No. 715

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 715 (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

The Texas Guaranteed Student Loan Corporation is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1989.

The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, PA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 14, 1989

TO: Honorable Bruce Gibson, Chair
Committee on Government Organization
House of Representatives
Austin, Texas

In Re: House Bill No. 715
By: Guerrero

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 715 (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

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The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, CKM

SENATE FAVORABLY AS SUBSTITUTED COMMITTEE REPORT

Lt. Governor William P. Hobby
President of the Senate

19
5/18/83
(date)/(time)

Sir:

We, your Committee on EDUCATION to which was referred
HB 715 by Guerrero / Parker have on 5/18, 19 83, had the same
(measure) (sponsor) (hearing date)

under consideration and I am instructed to report it back with the recommendation (s) that it

- ☒ do pass as substituted, and be printed
 () the caption remained the same as original measure
 () the caption changed with adoption of the substitute
 () do pass as substituted, and be ordered not printed
 () and is recommended for placement on the Local and Uncontested Bills Calendar.

A fiscal note was requested. ☒ yes () no
 A revised fiscal note was requested. () yes ☒ no
 An actuarial analysis was requested. () yes ☒ no
 Considered by subcommittee. () yes ☒ no

Senate Sponsor of House Measure _____

The measure was reported from Committee by the following vote:

	YEA	NAY	PNV	ABSENT
Parker, Chairman	<input checked="" type="checkbox"/>			
Truan, Vice Chairman	<input checked="" type="checkbox"/>			
Barrientos	<input checked="" type="checkbox"/>			
Brooks	<input checked="" type="checkbox"/>			
Edwards	<input checked="" type="checkbox"/>			
Green	<input checked="" type="checkbox"/>			
Haley	<input checked="" type="checkbox"/>			
Johnson	<input checked="" type="checkbox"/>			
Krier	<input checked="" type="checkbox"/>			
Uribe	<input checked="" type="checkbox"/>			
Zaffirini	<input checked="" type="checkbox"/>			
TOTAL VOTES	<u>10</u>			<u>0</u>

Sally Harnett
COMMITTEE CLERK

Carl Parker
CHAIRMAN

By: Guerrero (Senate Sponsor - Parker) H.B. No. 715
(In the Senate - Received from the House May 10, 1989;
May 11, 1989, read first time and referred to Committee on
Education; May 19, 1989, reported adversely, with favorable
Committee Substitute by the following vote: Yeas 11, Nays 0;
May 19, 1989, sent to printer.)

COMMITTEE VOTE

	Yea	Nay	PNV	Absent
Parker	x			
Truan	x			
Barrientos	x			
Brooks	x			
Edwards	x			
Green	x			
Haley	x			
Johnson	x			
Krier	x			
Uribe	x			
Zaffirini	x			

COMMITTEE SUBSTITUTE FOR H.B. No. 715

By: Parker

A BILL TO BE ENTITLED
AN ACT

relating to the composition of the board and to the continuation
and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.11, Education Code, is amended by
adding Subsection (d) to read as follows:

(d) The corporation is subject to the open meetings law,
Chapter 271, Acts of the 60th Legislature, Regular Session, 1967
(Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to
read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject
to the Texas Sunset Act (Chapter 325, Government Code). Unless
continued in existence as provided by that Act, the corporation is
abolished and this chapter expires September 1, 2001 [1989].

SECTION 3. Section 57.13, Education Code, is amended to read
as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The
corporation is governed by a board of 10 [~~11~~] directors appointed
in accordance with this section.

(b) The governor, with the advice and consent of the senate,
shall appoint nine [~~eight~~] members to the board. Five members must
have knowledge of or experience in finance, including management of
funds or business operations. One member must be a student who is
enrolled at a postsecondary educational institution for the number
of credit hours required by the institution to be classified as a
full-time student of the institution. Three members must be
[persons--working--in-commercial-finance;--three--must--be] members of
the faculty or administration of an eligible postsecondary
educational institution, as defined by Section 57.46 of this code[7
and--two--must--be--members--of--the--general--public--who--do--not--derive--a
majority--of--their--income--from--higher--education--or--commercial
finance].

(c) Appointments to the board shall be made without regard
to the race, color, handicap, sex, religion, age, or national
origin of the appointees. [The-chairman-of-the-Coordinating-Board,
Texas--College-and-University-System,--shall--appoint--a--member--of--the
coordinating-board-to-the-corporation-board-of-directors-

[(d) --The-commissioner-of-higher-education--shall--appoint--a
student--enrolled--in--a--public--or--private--postsecondary--educational
institution--to--the--board--Before--making--the--appointment,--the
commissioner--of--higher--education--shall--consult--with--higher
education-student-organizations-from-all-regions-of-the-state-]

(d) [~~e~~] The comptroller of public accounts or the

1 comptroller's designee shall serve as an ex officio voting [a]
2 member of the board.

3 (e) [~~f~~] Each member of the board must be a Texas resident.

4 SECTION 4. Chapter 57, Education Code, is amended by adding
5 Section 57.131 to read as follows:

6 Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP,
7 AND EMPLOYMENT. (a) An officer, employee, or paid consultant of
8 a Texas trade association of institutions that originate or hold
9 student loans or a Texas trade association in the field of higher
10 education may not be a member of the board or a corporation
11 employee who is exempt from the corporation's position
12 classification schedule.

13 (b) A person who is the spouse of an officer, manager, or
14 paid consultant of a Texas trade association described by
15 Subsection (a) of this section may not be a member of the board and
16 may not be a corporation employee who is exempt from the
17 corporation's position classification schedule.

18 (c) A person may not serve as a member of the board or act
19 as the general counsel to the board if the person is required to
20 register as a lobbyist under Chapter 305, Government Code, because
21 of the person's activities for compensation on behalf of a
22 profession related to the operation of the corporation.

23 (d) A person may not be one of the members of the board
24 required by Section 57.13(b) of this code to have knowledge of or
25 experience in finance if the person is a member of the board of
26 directors or an employee of an eligible lender that participates in
27 the guaranteed student loan program.

28 (e) For the purposes of this section, a Texas trade
29 association is a nonprofit, cooperative, and voluntarily joined
30 association of business or professional competitors in this state
31 designed to assist its members and its industry or profession in
32 dealing with mutual business or professional problems and in
33 promoting their common interest.

34 SECTION 5. Chapter 57, Education Code, is amended by adding
35 Section 57.141 to read as follows:

36 Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground
37 for removal from the board if a member:

38 (1) does not have at the time of appointment the
39 qualifications required by Section 57.13(b) of this code;

40 (2) does not maintain during service on the board the
41 qualifications required by Section 57.13(b) of this code;

42 (3) violates a prohibition established by Section
43 57.131 of this code;

44 (4) cannot discharge the member's duties for a
45 substantial part of the term for which the member is appointed
46 because of illness or disability; or

47 (5) is absent from more than half of the regularly
48 scheduled board meetings that the member is eligible to attend
49 during a calendar year unless the absence is excused by majority
50 vote of the board.

51 (b) The validity of an action of the board is not affected
52 by the fact that it was taken when a ground for removal of a board
53 member existed.

54 (c) If the executive director has knowledge that a potential
55 ground for removal exists, the executive director shall notify the
56 chairman of the board of the ground. The chairman shall then
57 notify the governor that a potential ground for removal exists.

58 SECTION 6. Section 57.18, Education Code, is amended to read
59 as follows:

60 Sec. 57.18. MEETINGS. (a) The board may meet as often as
61 necessary, but shall meet at least twice a year.

62 (b) The board shall develop and implement policies that
63 provide the public with a reasonable opportunity to appear before
64 the board and to speak on any issue under the jurisdiction of the
65 corporation.

66 SECTION 7. Section 57.19, Education Code, is amended to read
67 as follows:

68 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
69 shall appoint an executive director to serve as chief executive
70 officer in administering the program and carrying out the policies

of the board. The executive director serves at the will of the board.

(b) The board may appoint employees and may fix their compensation and prescribe their duties.

(c) The board may delegate any of its powers to the executive director and corporation employees. The board may not delegate policy decisions or decisions to initiate new revenue-generating services to the executive director and corporation employees.

(d) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program shall require intra-agency postings of all nonentry level positions concurrently with any public posting.

(e) The executive director or the executive director's designee shall develop a system of annual performance evaluations. All merit pay for corporation employees must be based on the system established under this subsection.

(f) The executive director or the executive director's designee shall prepare and maintain a written policy statement to assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the corporation's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the corporation's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(g) A policy statement prepared under Subsection (f) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(h) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (g) of this section. The report may be made separately or as part of other biennial reports made to the legislature.

(i) The board shall adopt policies that clearly define the respective responsibilities of the governing body of the corporation and the staff of the corporation.

SECTION 8. Section 57.20, Education Code, is amended to read as follows:

Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS [EMPLOYEES]. (a) The board shall prepare information of public interest describing the functions of the board and corporation and the procedures by which complaints are filed with and resolved by the board. The corporation shall make the information available to the public and appropriate state agencies.

(b) The board shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the corporation for the purpose of directing complaints to the board or corporation.

(c) The corporation shall keep an information file about each complaint filed with the corporation that the corporation has authority to resolve.

(d) If a written complaint is filed with the corporation that the corporation has authority to resolve, the corporation, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation. ~~[The board may appoint employees and may fix their compensation and prescribe their duties.]~~

SECTION 9. Chapter 57, Education Code, is amended by adding Section 57.24 to read as follows:

Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation

may participate in a revenue-generating activity that is consistent with the corporation's purpose if the board determines that the revenue from the activity:

(1) is sufficient to cover the costs of the activity; and

(2) will contribute to a reduction in the insurance premium paid by students under Section 57.43 of this code.

(b) If, under Subsection (a) of this section, the board authorizes the corporation to perform additional services, the corporation may not require postsecondary educational institutions or students to use those services unless required by state or federal law.

(c) The corporation may not guarantee loans for other states.

SECTION 10. Section 57.41(c), Education Code, is amended to read as follows:

(c) The corporation shall, to the extent funds are available, make loans to eligible students, as a lender of last resort, under the following conditions:

(1) the borrower certifies and provides evidence to the corporation that he/she has made an application to at least two qualified lenders and was unable to obtain a guaranteed student loan from a commercial lender and is not aware of any eligible lender in this state that is willing to make a guaranteed student loan;

(2) the borrower also certifies to the corporation that he/she was unable to obtain a guaranteed student loan from the Texas Higher Education Coordinating Board[~~7--Texas--College-and University-System~~];

(3) the corporation certifies that it is not aware of any eligible lender in this state that is willing to make a guaranteed student loan; and

(4) the corporation must, to the extent a market is available, sell loans made as last resort loans within a reasonable period of time of the date of loan origination. This provision will not apply to any loans that cannot be sold at par. The corporation shall maintain a separate file showing the name and address of the student receiving such a loan and the name and address of the involved educational institution.

SECTION 11. Section 57.43, Education Code, is amended to read as follows:

Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may impose and collect insurance premiums from student borrowers in an amount not to exceed the maximum allowable under the Higher Education Act of 1965, as amended.

(b) If the corporation imposes an insurance premium under this section, the corporation must impose the lowest insurance premium practicable that:

(1) complies with federal requirements; and

(2) does not jeopardize the corporation's financial viability.

SECTION 12. Section 57.45(a), Education Code, is amended to read as follows:

(a) In order to qualify as an eligible lender under this subchapter, the lender must:

(1) be an eligible lender for purposes of the Higher Education Act of 1965, as amended; and

(2) [~~have--its--principal--place-of-business-in-Texas,~~ and

[~~3~~] enter into an agreement with the corporation for participation in the program.

SECTION 13. Chapter 57, Education Code, is amended by adding Section 57.461 to read as follows:

Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

(1) an advisory committee that is composed of 15 members who represent the postsecondary educational institutions that participate in the corporation's guaranteed student loan program; and

(2) an advisory committee that is composed of 12

members including:

(A) one member who represents the Texas Higher Education Coordinating Board; and

(B) 11 members who represent lenders that participate in the corporation's guaranteed student loan program.

(b) The board shall appoint advisory committee members on the recommendation of the executive director.

(c) The board may establish other advisory committees as the board considers necessary.

(d) The board shall:

(1) specify each advisory committee's purpose and duties; and

(2) require each committee to report to the board in a manner specified by the board relating to each committee's activities and work results.

SECTION 14. Section 57.47, Education Code, is amended by amending Subsection (a) and adding Subsection (d) to read as follows:

(a) If a student borrower defaults on a loan and the corporation is required to honor the guarantee, the corporation or the Texas Higher Education Coordinating Board[~~,-Texas--College--and University--System,~~] shall bring suit against the defaulting party as soon as practicable.

(d) Notwithstanding any other law, if the corporation or the Texas Higher Education Coordinating Board brings suit against a defaulting party under this section, the corporation or the coordinating board, as appropriate, shall pay 50 percent of the statutory filing fee in effect on the date on which the suit is filed. If the defaulting borrower prevails in the suit filed under this section, the corporation or the coordinating board, as appropriate, shall pay the remaining 50 percent of the statutory filing fee on the date of the final disposition of the suit. If the corporation or coordinating board prevails in the suit:

(1) the judgment shall find the defaulting borrower liable to the corporation or the coordinating board, as appropriate, for the amount of the filing fee; and

(2) the corporation or coordinating board, as appropriate, shall pay the remaining 50 percent of the statutory filing fee not later than one week after the date on which the defaulting borrower pays to the corporation or coordinating board, as appropriate, the full amount, including the filing fee, for which the borrower is liable to the corporation or coordinating board.

SECTION 15. Chapter 57, Education Code, is amended by adding Section 57.481 to read as follows:

Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In this section, "loan default rate" means the rate at which student borrowers default on loans guaranteed by the corporation as determined by the corporation in compliance with federal guidelines.

(b) The corporation shall take an active role in coordinating, facilitating, and providing technical assistance on guaranteed student loan default prevention and reduction initiatives and programs in the state and shall work with the appropriate state agencies and other entities, including eligible postsecondary educational institutions, eligible lenders, servicers, secondary markets, the Texas Higher Education Coordinating Board, the Central Education Agency, and state professional and occupational licensing agencies.

(c) The corporation shall maintain a system of communication among the appropriate state agencies and entities to reduce loan default claims.

(d) The corporation shall:

(1) calculate the loan default rates for the postsecondary educational institutions that participate in the corporation's guaranteed student loan program; and

(2) semiannually notify the postsecondary educational institutions of those loan default rates.

(e) The corporation after consultation with eligible institutions and lenders and consistent with federal regulations

and policies shall establish a loan default rate for a postsecondary educational institution or lender that, if exceeded, requires the corporation to intervene as provided by Subsection (f) of this section or permits the corporation to intervene as provided by Subsection (g) of this section.

(f) If a postsecondary educational institution's loan default rate exceeds the rate established for the institution under Subsection (e) of this section, the corporation shall conduct program evaluations for the institution or provide technical assistance to the institution, or both.

(g) If a postsecondary educational institution's or lender's loan default rate exceeds the rate established under Subsection (e) of this section, the corporation may require the institution or lender, as a condition of eligibility to participate in the corporation's guaranteed student loan program, to take one or more actions, including to require:

(1) educational institutions to set tuition and fees refund policies for students who do not complete their course of study that:

(A) are more beneficial to students; and

(B) encourage repayment of student loans;

(2) lenders to disburse loans to students in more installments than required by federal guidelines, to the extent permitted by federal law and federal guidelines; or

(3) lenders to notify in clear language the affected postsecondary educational institutions and student borrowers if student loans are assigned or transferred to another eligible lender.

(h) Before the corporation may require a postsecondary educational institution or lender to take any action under Subsection (g) of this section, the proposed action must be reviewed by the postsecondary educational institution or lender advisory committee established under Section 57.461 of this code, as appropriate.

SECTION 16. Chapter 57, Education Code, is amended by adding Section 57.491 to read as follows:

Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

(1) "License" means a certificate or similar form of permission issued or renewed by a licensing agency and required by law to engage in a profession or occupation.

(2) "Licensee" means a person to whom a licensing agency issues a license.

(3) "Licensing agency" means a board, commission, department, or other agency in the executive branch of state government that issues or renews a license.

(b) The corporation shall identify the licensing agencies subject to this section and provide written notice to those agencies of the requirements prescribed by this section. Only those licensing agencies that the corporation identifies and that receive such notice are required to carry out this section.

(c) The corporation periodically shall:

(1) identify the persons who are in default on loans guaranteed by the corporation; and

(2) provide a written list of the names of those persons to the licensing agencies.

(d) A person who is in default on a loan may enter an agreement with the corporation for repayment of a defaulted loan as required under this section. The corporation shall provide the person with a certificate certifying that the person has entered a repayment agreement on the defaulted loan.

(e) A licensing agency shall not renew the license of a licensee whose name is on the list provided by the corporation under Subsection (c) of this section unless:

(1) the renewal is the first renewal following the agency's receipt of the list including the licensee's name among those in default; or

(2) the licensee presents to the agency a certificate issued by the corporation certifying that:

(A) the licensee has entered a repayment

1 agreement on the defaulted loan; or

2 (B) the licensee is not in default on a loan
3 guaranteed by the corporation.

4 (f) A licensing agency may issue an initial license to a
5 person whose name is on the list provided by the corporation under
6 Subsection (c) of this section and who meets all other
7 qualifications for licensure, but shall not renew the license
8 unless the person presents to the agency a certificate issued by
9 the corporation certifying that:

10 (1) the licensee has entered a repayment agreement on
11 the defaulted loan; or

12 (2) the licensee is not in default on a loan
13 guaranteed by the corporation.

14 (g) A licensing agency shall not renew the license of a
15 licensee who defaults on a repayment agreement unless the person
16 presents to the agency a certificate issued by the corporation
17 certifying that:

18 (1) the licensee has entered another repayment
19 agreement on the defaulted loan; or

20 (2) the licensee is not in default on a loan
21 guaranteed by the corporation or on a repayment agreement.

22 (h) A licensing agency shall provide written notice of the
23 nonrenewal policies established under Subsections (e), (f), and (g)
24 of this section to each applicant for a license or for renewal of a
25 license. The corporation shall provide written notice of those
26 same policies on each loan application form provided by the
27 corporation and on each promissory note signed by a borrower.
28 Failure to provide the notice required by this subsection does not
29 affect the default status of a borrower or the prohibitions on
30 renewal of a license held by a person in default.

31 (i) A licensing agency shall provide an opportunity for a
32 hearing to a licensee before the agency takes action concerning the
33 nonrenewal of a license under this section.

34 (j) Each licensing agency shall adopt any rules necessary to
35 carry out the licensing agency's duties under this section.

36 (k) The board shall establish procedures to carry out the
37 corporation's duties under this section.

38 (l) This section does not apply to the State Securities
39 Board.

40 SECTION 17. Section 57.50, Education Code, is amended to
41 read as follows:

42 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
43 an eligible lender may discriminate against an eligible student in
44 making a loan or loan guarantee on the basis of race, age,
45 religion, [ineeme7] or sex.

46 SECTION 18. Section 57.76, Education Code, is amended to
47 read as follows:

48 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
49 corporation shall have a fiscal audit performed by a certified
50 public accountant.

51 (b) A copy of the annual audit shall be submitted to the
52 state auditor for review. The state auditor may:

53 (1) examine any working papers from the annual audit;
54 and

55 (2) conduct a separate audit if, after reviewing the
56 independent audit, the state auditor considers a separate audit
57 necessary.

58 SECTION 19. Chapter 57, Education Code, is amended by adding
59 Section 57.761 to read as follows:

60 Sec. 57.761. INTERNAL AUDITOR. (a) The executive director
61 shall appoint an internal auditor for the corporation. The
62 appointment of an internal auditor must be approved by the board.

63 (b) The internal auditor shall report to the executive
64 director. The board may require the internal auditor to submit
65 directly to the board certain reports specified by the board.

66 (c) The board's executive committee, a subcommittee of the
67 board, shall meet with the internal auditor on a regular basis.

68 (d) The internal auditor shall examine the corporation's
69 system of internal controls and its system of identifying fixed and
70 variable costs, including administrative costs.

SECTION 20. Section 82.022, Government Code, is amended by adding Subsection (c) to read as follows:

(c) The supreme court may adopt rules relating to the nonrenewal of the license of a lawyer who is in default on a loan guaranteed under Chapter 57, Education Code, by the Texas Guaranteed Student Loan Corporation.

SECTION 21. Sections 57.21 and 57.51, Education Code, are repealed.

SECTION 22. (a) A member of the board of the Texas Guaranteed Student Loan Corporation appointed by the governor or by the commissioner of higher education and serving on the board on the effective date of this Act serves until the member vacates the office or until the member's term expires. As vacancies occur or board members' terms expire, the governor shall appoint new members to achieve the membership scheme prescribed by Section 57.13(b), Education Code, as amended by this Act. To fill the new membership position created on the board by this Act's amendment of Section 57.13(b), the governor shall appoint the full-time student member of the board for a term expiring January 31, 1993. The position on the board filled through appointment by the chairman of the Texas Higher Education Coordinating Board is abolished on the effective date of this Act.

(b) The first policy statement required to be filed under Section 57.19, Education Code, as amended by this Act, must be filed before November 1, 1989.

(c) A state agency that issues professional or occupational licenses may not:

(1) take action concerning the nonrenewal of a license before September 1, 1991, under Section 57.491, Education Code, as added by this Act; or

(2) issue notice as provided by Section 57.491(h), Education Code, as added by this Act, before September 1, 1990, to persons who apply for a license.

SECTION 23. This Act takes effect September 1, 1989.

SECTION 24. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

* * * * *

Austin, Texas
May 19, 1989

Hon. William P. Hobby
President of the Senate

Sir:

We, your Committee on Education to which was referred H.B. No. 715, have had the same under consideration, and I am instructed to report it back to the Senate with the recommendation that it do not pass, but that the Committee Substitute adopted in lieu thereof do pass and be printed.

Parker, Chairman

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 12, 1989

TO: Honorable Carl A. Parker, Chairman
Committee on Education
Senate Chamber
Austin, Texas

In Re: House Bill No. 715,
as engrossed
By: Guerrero

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 715, as engrossed (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

The Texas Guaranteed Student Loan Corporation is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1989.

The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 25, 1989

TO: Honorable Bruce Gibson, Chair
Committee on Government Organization
House of Representatives
Austin, Texas

In Re: Committee Substitute
for House Bill No. 715

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 715 (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

The Texas Guaranteed Student Loan Corporation is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1989.

The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, PA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 14, 1989

TO: Honorable Bruce Gibson, Chair
Committee on Government Organization
House of Representatives
Austin, Texas

In Re: House Bill No. 715
By: Guerrero

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 715 (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

The Texas Guaranteed Student Loan Corporation is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1989.

The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, CKM

ADOPTED

MAY 22 1989

Harry King
Speaker of the House

By Guerrero

C.S.H.B. No. 715

A BILL TO BE ENTITLED

AN ACT

relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.11, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The corporation is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the corporation is abolished and this chapter expires September 1, 2001 [~~1989~~].

SECTION 3. Section 57.13, Education Code, is amended to read as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a board of 10 [~~11~~] directors appointed in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint nine [~~eight~~] members to the board. Five members must have knowledge of or experience in finance, including management of funds or business operations. One member must be a student who is

enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution. Three members must be [persons--working--in-commercial-finance;--three-must-be] members of the faculty or administration of an eligible postsecondary educational institution, as defined by Section 57.46 of this code[; and--two--must-be-members-of-the-general-public-who-do-not-derive-a majority-of--their--income--from--higher--education--or--commercial finance].

(c) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees. [The-chairman-of-the-Coordinating-Board; Texas--College-and-University-System;--shall-appoint-a-member-of-the coordinating-board-to-the-corporation-board-of-directors;

[{d}--The-commissioner-of-higher-education--shall--appoint--a student--enrolled--in-a-public-or-private-postsecondary-educational institution-to-the--board: ---Before--making--the--appointment;--the commissioner---of---higher--education--shall--consult--with--higher education-student-organizations-from-all-regions-of-the-state.]

(d) [{e}] The comptroller of public accounts or the comptroller's designee shall serve as an ex officio voting [a] member of the board.

(e) [{f}] Each member of the board must be a Texas resident.

SECTION 4. Chapter 57, Education Code, is amended by adding Section 57.131 to read as follows:

Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

1 a Texas trade association of institutions that originate or hold
2 student loans or a Texas trade association in the field of higher
3 education may not be a member of the board or a corporation
4 employee who is exempt from the corporation's position
5 classification schedule.

6 (b) A person who is the spouse of an officer, manager, or
7 paid consultant of a Texas trade association described by
8 Subsection (a) of this section may not be a member of the board and
9 may not be a corporation employee who is exempt from the
10 corporation's position classification schedule.

11 (c) A person may not serve as a member of the board or act
12 as the general counsel to the board if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the corporation.

16 (d) A person may not be one of the members of the board
17 required by Section 57.13(b) of this code to have knowledge of or
18 experience in finance if the person is a member of the board of
19 directors or an employee of an eligible lender that participates in
20 the guaranteed student loan program.

21 (e) For the purposes of this section, a Texas trade
22 association is a nonprofit, cooperative, and voluntarily joined
23 association of business or professional competitors in this state
24 designed to assist its members and its industry or profession in
25 dealing with mutual business or professional problems and in
26 promoting their common interest.

27 SECTION 5. Chapter 57, Education Code, is amended by adding

Section 57.141 to read as follows:

Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 57.13(b) of this code;

(2) does not maintain during service on the board the qualifications required by Section 57.13(b) of this code;

(3) violates a prohibition established by Section 57.131 of this code;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a board member existed.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

SECTION 6. Section 57.18, Education Code, is amended to read as follows:

Sec. 57.18. MEETINGS. (a) The board may meet as often as necessary, but shall meet at least twice a year.

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees. ~~The board may not delegate~~
16 policy decisions or decisions to initiate new revenue-generating
17 services to the executive director and corporation employees.

18 (d) The executive director or the executive director's
19 designee shall develop an intra-agency career ladder program. The
20 program shall require intra-agency postings of all nonentry level
21 positions concurrently with any public posting.

22 (e) The executive director or the executive director's
23 designee shall develop a system of annual performance evaluations.
24 All merit pay for corporation employees must be based on the system
25 established under this subsection.

26 (f) The executive director or the executive director's
27 designee shall prepare and maintain a written policy statement to

assure implementation of a program of equal employment opportunity under which all personnel transactions are made without regard to race, color, handicap, sex, religion, age, or national origin. The policy statement must include:

(1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel;

(2) a comprehensive analysis of the corporation's work force that meets federal and state guidelines;

(3) procedures by which a determination can be made of significant underuse in the corporation's work force of all persons for whom federal or state guidelines encourage a more equitable balance; and

(4) reasonable methods to appropriately address those areas of significant underuse.

(g) A policy statement prepared under Subsection (f) of this section must cover an annual period, be updated at least annually, and be filed with the governor's office.

(h) The governor's office shall deliver a biennial report to the legislature based on the information received under Subsection (g) of this section. The report may be made separately or as part of other biennial reports made to the legislature.

(i) The board shall adopt policies that clearly define the respective responsibilities of the governing body of the corporation and the staff of the corporation.

SECTION 8. Section 57.20, Education Code, is amended to read as follows:

1 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
2 [EMPLOYEES]. (a) The board shall prepare information of public
3 interest describing the functions of the board and corporation and
4 the procedures by which complaints are filed with and resolved by
5 the board. The corporation shall make the information available to
6 the public and appropriate state agencies.

7 (b) The board shall establish methods by which consumers and
8 service recipients are notified of the name, mailing address, and
9 telephone number of the corporation for the purpose of directing
10 complaints to the board or corporation.

11 (c) The corporation shall keep an information file about
12 each complaint filed with the corporation that the corporation has
13 authority to resolve.

14 (d) If a written complaint is filed with the corporation
15 that the corporation has authority to resolve, the corporation, at
16 least quarterly and until final disposition of the complaint, shall
17 notify the parties to the complaint of the status of the complaint
18 unless the notice would jeopardize an undercover investigation.
19 [The-board-may-appoint-employees-and-may-fix-their-compensation-and
20 prescribe-their-duties-]

21 SECTION 9. Chapter 57, Education Code, is amended by adding
22 Section 57.24 to read as follows:

23 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
24 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
25 may participate in a revenue-generating activity that is consistent
26 with the corporation's purpose if the board determines that the
27 revenue from the activity:

1 (1) is sufficient to cover the costs of the activity;
2 and

3 (2) will contribute to a reduction in the insurance
4 premium paid by students under Section 57.43 of this code.

5 (b) If, under Subsection (a) of this section, the board
6 authorizes the corporation to perform additional services, the
7 corporation may not require postsecondary educational institutions
8 or students to use those services unless required by state or
9 federal law.

10 (c) The corporation may not guarantee loans for other
11 states.

12 SECTION 10. Section 57.41(c), Education Code, is amended to
13 read as follows:

14 (c) The corporation shall, to the extent funds are
15 available, make loans to eligible students, as a lender of last
16 resort, under the following conditions:

17 (1) the borrower certifies and provides evidence to
18 the corporation that he/she has made an application to at least two
19 qualified lenders and was unable to obtain a guaranteed student
20 loan from a commercial lender and is not aware of any eligible
21 lender in this state that is willing to make a guaranteed student
22 loan;

23 (2) the borrower also certifies to the corporation
24 that he/she was unable to obtain a guaranteed student loan from the
25 Texas Higher Education Coordinating Board[7--Texas--College--and
26 University-System];

27 (3) the corporation certifies that it is not aware of

1 any eligible lender in this state that is willing to make a
2 guaranteed student loan; and

3 (4) the corporation must, to the extent a market is
4 available, sell loans made as last resort loans within a reasonable
5 period of time of the date of loan origination. This provision
6 will not apply to any loans that cannot be sold at par.
7 The corporation shall maintain a separate file showing the name and
8 address of the student receiving such a loan and the name and
9 address of the involved educational institution.

10 SECTION 11. Section 57.43, Education Code, is amended to
11 read as follows:

12 Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may
13 impose and collect insurance premiums from student borrowers in an
14 amount not to exceed the maximum allowable under the Higher
15 Education Act of 1965, as amended.

16 (b) If the corporation imposes an insurance premium under
17 this section, the corporation must impose the lowest insurance
18 premium practicable that:

19 (1) complies with federal requirements; and
20 (2) does not jeopardize the corporation's financial
21 viability.

22 SECTION 12. Section 57.45(a), Education Code, is amended to
23 read as follows:

24 (a) In order to qualify as an eligible lender under this
25 subchapter, the lender must:

26 (1) be an eligible lender for purposes of the Higher
27 Education Act of 1965, as amended; and

1 (2) [~~have its principal place of business in Texas,~~
2 and

3 [~~3~~] enter into an agreement with the corporation for
4 participation in the program.

5 SECTION 13. Chapter 57, Education Code, is amended by adding
6 Section 57.461 to read as follows:

7 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
8 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

9 (1) an advisory committee that is composed of 15
10 members who represent the postsecondary educational institutions
11 that participate in the corporation's guaranteed student loan
12 program; and

13 (2) an advisory committee that is composed of 12
14 members including:

15 (A) one member who represents the Texas Higher
16 Education Coordinating Board; and

17 (B) 11 members who represent lenders that
18 participate in the corporation's guaranteed student loan program.

19 (b) The board shall appoint advisory committee members on
20 the recommendation of the executive director.

21 (c) The board may establish other advisory committees as the
22 board considers necessary.

23 (d) The board shall:

24 (1) specify each advisory committee's purpose and
25 duties; and

26 (2) require each committee to report to the board in a
27 manner specified by the board relating to each committee's

1 activities and work results.

2 SECTION 14. Section 57.47, Education Code, is amended by
3
4 amending Subsection (a) and adding Subsection (d) to read as
5 follows:

6 (a) If a student borrower defaults on a loan and the
7 corporation is required to honor the guarantee, the corporation or
8 the Texas Higher Education Coordinating Board[~~7-Texas-College-and~~
9 ~~University-System~~] shall bring suit against the defaulting party
10 as soon as practicable.

11 (d) Notwithstanding any other law, if the corporation or the
12 Texas Higher Education Coordinating Board brings suit against a
13 defaulting party under this section, the corporation or the
14 coordinating board, as appropriate, shall pay 50 percent of the
15 statutory filing fee in effect on the date on which the suit is
16 filed. If the defaulting borrower prevails in the suit filed under
17 this section, the corporation or the coordinating board, as
18 appropriate, shall pay the remaining 50 percent of the statutory
19 filing fee on the date of the final disposition of the suit. If
20 the corporation or coordinating board prevails in the suit:

21 (1) the judgment shall find the defaulting borrower
22 liable to the corporation or the coordinating board, as
23 appropriate, for the amount of the filing fee; and

24 (2) the corporation or coordinating board, as
25 appropriate, shall pay the remaining 50 percent of the statutory
26 filing fee not later than one week after the date on which the
27 defaulting borrower pays to the corporation or coordinating board,
as appropriate, the full amount, including the filing fee, for

1 which the borrower is liable to the corporation or coordinating
2 board.

3 SECTION 15. Chapter 57, Education Code, is amended by adding
4 Section 57.481 to read as follows:

5 Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In
6 this section, "loan default rate" means the rate at which student
7 borrowers default on loans guaranteed by the corporation as
8 determined by the corporation in compliance with federal
9 guidelines.

10 (b) The corporation shall take an active role in
11 coordinating, facilitating, and providing technical assistance on
12 guaranteed student loan default prevention and reduction
13 initiatives and programs in the state and shall work with the
14 appropriate state agencies and other entities, including eligible
15 postsecondary educational institutions, eligible lenders,
16 servicers, secondary markets, the Texas Higher Education
17 Coordinating Board, the Central Education Agency, and state
18 professional and occupational licensing agencies.

19 (c) The corporation shall maintain a system of communication
20 among the appropriate state agencies and entities to reduce loan
21 default claims.

22 (d) The corporation shall:

23 (1) calculate the loan default rates for the
24 postsecondary educational institutions that participate in the
25 corporation's guaranteed student loan program; and

26 (2) semiannually notify the postsecondary educational
27 institutions of those loan default rates.

28 (e) The corporation after consultation with eligible
29 institutions and lenders and consistent with federal regulations

1 and policies shall establish a loan default rate for a
 2 postsecondary educational institution or lender that, if exceeded,
 3 requires the corporation to intervene as provided by Subsection (f)
 4 of this section or permits the corporation to intervene as provided
 5 by Subsection (g) of this section.

6 (f) If a postsecondary educational institution's loan
 7 default rate exceeds the rate established for the institution under
 8 Subsection (e) of this section, the corporation shall conduct
 9 program evaluations for the institution or provide technical
 10 assistance to the institution, or both.

11 (g) If a postsecondary educational institution's or lender's
 12 loan default rate exceeds the rate established under Subsection (e)
 13 of this section, the corporation may require the institution or
 14 lender, as a condition of eligibility to participate in the
 15 corporation's guaranteed student loan program, to take one or more
 16 actions, including to require:

17 (1) educational institutions to set tuition and fees
 18 refund policies for students who do not complete their course of
 19 study that:

20 (A) are more beneficial to students; and

21 (B) encourage repayment of student loans;

22 (2) lenders to disburse loans to students in more
 23 installments than required by federal guidelines, to the extent
 24 permitted by federal law and federal guidelines; or

25 (3) lenders to notify in clear language the affected
 26 postsecondary educational institutions and student borrowers if
 27 student loans are assigned or transferred to another eligible

1 lender.

2 (h) Before the corporation may require a postsecondary
3 educational institution or lender to take any action under
4 Subsection (g) of this section, the proposed action must be
5 reviewed by the postsecondary educational institution or lender
6 advisory committee established under Section 57.461 of this code,
7 as appropriate.

8 SECTION 16. Chapter 57, Education Code, is amended by adding
9 Section 57.491 to read as follows:

10 Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF
11 PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

12 (1) "License" means a certificate or similar form of
13 permission issued or renewed by a licensing agency and required by
14 law to engage in a profession or occupation.

15 (2) "Licensee" means a person to whom a licensing
16 agency issues a license.

17 (3) "Licensing agency" means a board, commission,
18 department, or other agency in the executive branch of state
19 government that issues or renews a license.

20 (b) The corporation shall identify the licensing agencies
21 subject to this section and provide written notice to those
22 agencies of the requirements prescribed by this section. Only
23 those licensing agencies that the corporation identifies and that
24 receive such notice are required to carry out this section.

25 (c) The corporation periodically shall:

26 (1) identify the persons who are in default on loans
27 guaranteed by the corporation; and

1 (2) provide a written list of the names of those
2 persons to the licensing agencies.

3 (d) A person who is in default on a loan may enter an
4 agreement with the corporation for repayment of a defaulted loan as
5 required under this section. The corporation shall provide the
6 person with a certificate certifying that the person has entered a
7 repayment agreement on the defaulted loan.

8 (e) A licensing agency shall not renew the license of a
9 licensee whose name is on the list provided by the corporation
10 under Subsection (c) of this section unless:

11 (1) the renewal is the first renewal following the
12 agency's receipt of the list including the licensee's name among
13 those in default; or

14 (2) the licensee presents to the agency a certificate
15 issued by the corporation certifying that:

16 (A) the licensee has entered a repayment
17 agreement on the defaulted loan; or

18 (B) the licensee is not in default on a loan
19 guaranteed by the corporation.

20 (f) A licensing agency may issue an initial license to a
21 person whose name is on the list provided by the corporation under
22 Subsection (c) of this section and who meets all other
23 qualifications for licensure, but shall not renew the license
24 unless the person presents to the agency a certificate issued by
25 the corporation certifying that:

26 (1) the licensee has entered a repayment agreement on
27 the defaulted loan; or

1 (2) the licensee is not in default on a loan
2 guaranteed by the corporation.

3 (g) A licensing agency shall not renew the license of a
4 licensee who defaults on a repayment agreement unless the person
5 presents to the agency a certificate issued by the corporation
6 certifying that:

7 (1) the licensee has entered another repayment
8 agreement on the defaulted loan; or

9 (2) the licensee is not in default on a loan
10 guaranteed by the corporation or on a repayment agreement.

11 (h) A licensing agency shall provide written notice of the
12 nonrenewal policies established under Subsections (e), (f), and (g)
13 of this section to each applicant for a license or for renewal of a
14 license. The corporation shall provide written notice of those
15 same policies on each loan application form provided by the
16 corporation and on each promissory note signed by a borrower.
17 Failure to provide the notice required by this subsection does not
18 affect the default status of a borrower or the prohibitions on
19 renewal of a license held by a person in default.

20 (i) A licensing agency shall provide an opportunity for a
21 hearing to a licensee before the agency takes action concerning the
22 nonrenewal of a license under this section.

23 (j) Each licensing agency shall adopt any rules necessary to
24 carry out the licensing agency's duties under this section.

25 (k) The board shall establish procedures to carry out the
26 corporation's duties under this section.

27 (l) This section does not apply to the State Securities

1 Board.

2 SECTION 17. Section 57.50, Education Code, is amended to
3 read as follows:

4 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
5 an eligible lender may discriminate against an eligible student in
6 making a loan or loan guarantee on the basis of race, age,
7 religion, [~~income~~] or sex.

8 SECTION 18. Section 57.76, Education Code, is amended to
9 read as follows:

10 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
11 corporation shall have a fiscal audit performed by a certified
12 public accountant.

13 (b) A copy of the annual audit shall be submitted to the
14 state auditor for review. The state auditor may:

15 (1) examine any working papers from the annual audit;
16 and

17 (2) conduct a separate audit if, after reviewing the
18 independent audit, the state auditor considers a separate audit
19 necessary.

20 SECTION 19. Chapter 57, Education Code, is amended by adding
21 Section 57.761 to read as follows:

22 Sec. 57.761. INTERNAL AUDITOR. (a) The executive director
23 shall appoint an internal auditor for the corporation. The
24 appointment of an internal auditor must be approved by the board.

25 (b) The internal auditor shall report to the executive
26 director. The board may require the internal auditor to submit
27 directly to the board certain reports specified by the board.

1 (c) The board's executive committee, a subcommittee of the
2 board, shall meet with the internal auditor on a regular basis.

3 (d) The internal auditor shall examine the corporation's
4 system of internal controls and its system of identifying fixed and
5 variable costs, including administrative costs.

6 SECTION 20. Section 82.022, Government Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) The supreme court may adopt rules relating to the
9 nonrenewal of the license of a lawyer who is in default on a loan
10 guaranteed under Chapter 57, Education Code, by the Texas
11 Guaranteed Student Loan Corporation.

12 SECTION 21. Sections 57.21 and 57.51, Education Code, are
13 repealed.

14 SECTION 22. (a) A member of the board of the Texas
15 Guaranteed Student Loan Corporation appointed by the governor or by
16 the commissioner of higher education and serving on the board on
17 the effective date of this Act serves until the member vacates the
18 office or until the member's term expires. As vacancies occur or
19 board members' terms expire, the governor shall appoint new members
20 to achieve the membership scheme prescribed by Section 57.13(b),
21 Education Code, as amended by this Act. To fill the new membership
22 position created on the board by this Act's amendment of Section
23 57.13(b), the governor shall appoint the full-time student member
24 of the board for a term expiring January 31, 1993. The position on
25 the board filled through appointment by the chairman of the Texas
26 Higher Education Coordinating Board is abolished on the effective
27 date of this Act.

1 (b) The first policy statement required to be filed under
2 Section 57.19, Education Code, as amended by this Act, must be
3 filed before November 1, 1989.

4 (c) A state agency that issues professional or occupational
5 licenses may not:

6 (1) take action concerning the nonrenewal of a license
7 before September 1, 1991, under Section 57.491, Education Code, as
8 added by this Act; or

9 (2) issue notice as provided by Section 57.491(h),
10 Education Code, as added by this Act, before September 1, 1990, to
11 persons who apply for a license.

12 SECTION 23. This Act takes effect September 1, 1989.

13 SECTION 24. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended.

AMEND THE CAPTION TO CONFORM
TO THE BODY OF THE BILL

ADOPTED

MAY 22 1989

Barry King
Secretary of the Senate

Floor Amendment 1

By Parker

✓ Amend HB 715 on page 5, beginning on line 15 by deleting the following language: "The board may not delegate policy decisions or decisions to initiate new revenue generating services to the executive director and corporation employees."

ADOPTED

MAY 22 1989

John King
Speaker of the House

ADOPTED

MAY 22 1989

Floor Amendment No. 2

Esty King
Member of the Senate

By: *Park*

Amend C.S.H.B. 715, Section 14, Subsection (d), Sec. 57.47, Texas
Education Code, as follows:

✓ In the phrase "shall pay 50 percent of the statutory filing fee," delete
the word "statutory."

Insert between the words "filing fee" and "in effect," the phrase "or
✓ other costs of court taxed and collected in advance that are."

SENATE AMENDMENTS

2nd Printing

HOUSE OF REPRESENTATIVES

09 MAY 22 PM 6:01

By Guerrero

H.B. No. 715

A BILL TO BE ENTITLED

AN ACT

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SECTION 2. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the corporation is abolished and this chapter expires September 1, 2001 [~~1989~~].

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(b) The governor, with the advice and consent of the senate, shall appoint nine [~~eight~~] members to the board. Five members must have knowledge of or experience in finance, including management of funds or business operations. One member must be a student who is

enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution. Three members must be ~~[persons--working--in--commercial--finance;--three--must--be]~~ members of the faculty or administration of an eligible postsecondary educational institution, as defined by Section 57.46 of this code ~~[;--and--two--must--be--members--of--the--general--public--who--do--not--derive--a--majority--of--their--income--from--higher--education--or--commercial--finance]~~.

(c) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees. ~~[The--chairman--of--the--Coordinating--Board;--Texas--College--and--University--System;--shall--appoint--a--member--of--the--coordinating--board--to--the--corporation--board--of--directors;--~~

~~[(d) --The--commissioner--of--higher--education--shall--appoint--a--student--enrolled--in--a--public--or--private--postsecondary--educational--institution--to--the--board;--Before--making--the--appointment;--the--commissioner--of--higher--education--shall--consult--with--higher--education--student--organizations--from--all--regions--of--the--state;]~~

(d) ~~[(e)]~~ The comptroller of public accounts or the comptroller's designee shall serve as an ex officio voting ~~[a]~~ member of the board.

(e) ~~[(f)]~~ Each member of the board must be a Texas resident.

SECTION 4. Chapter 57, Education Code, is amended by adding Section 57.131 to read as follows:

Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

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6 (b) A person who is the spouse of an officer, manager, or
7 paid consultant of a Texas trade association described by
8 Subsection (a) of this section may not be a member of the board and
9 may not be a corporation employee who is exempt from the
10 corporation's position classification schedule.

11 (c) A person may not serve as a member of the board or act
12 as the general counsel to the board if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the corporation.

16 (d) A person may not be one of the members of the board
17 required by Section 57.13(b) of this code to have knowledge of or
18 experience in finance if the person is a member of the board of
19 directors or an employee of an eligible lender that participates in
20 the guaranteed student loan program.

21 (e) For the purposes of this section, a Texas trade
22 association is a nonprofit, cooperative, and voluntarily joined
23 association of business or professional competitors in this state
24 designed to assist its members and its industry or profession in
25 dealing with mutual business or professional problems and in
26 promoting their common interest.

27 SECTION 5. Chapter 57, Education Code, is amended by adding

Section 57.141 to read as follows:

Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 57.13(b) of this code;

(2) does not maintain during service on the board the qualifications required by Section 57.13(b) of this code;

(3) violates a prohibition established by Section 57.131 of this code;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a board member existed.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

SECTION 6. Section 57.18, Education Code, is amended to read as follows:

Sec. 57.18. MEETINGS. (a) The board may meet as often as necessary, but shall meet at least twice a year.

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees.

16 (d) The executive director or the executive director's
17 designee shall develop an intra-agency career ladder program. The
18 program shall require intra-agency postings of all nonentry level
19 positions concurrently with any public posting.

20 (e) The executive director or the executive director's
21 designee shall develop a system of annual performance evaluations.
22 All merit pay for corporation employees must be based on the system
23 established under this subsection.

24 (f) The executive director or the executive director's
25 designee shall prepare and maintain a written policy statement to
26 assure implementation of a program of equal employment opportunity
27 under which all personnel transactions are made without regard to

1 race, color, handicap, sex, religion, age, or national origin. The
2 policy statement must include:

3 (1) personnel policies, including policies relating to
4 recruitment, evaluation, selection, appointment, training, and
5 promotion of personnel;

6 (2) a comprehensive analysis of the corporation's work
7 force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of
9 significant underuse in the corporation's work force of all persons
10 for whom federal or state guidelines encourage a more equitable
11 balance; and

12 (4) reasonable methods to appropriately address those
13 areas of significant underuse.

14 (g) A policy statement prepared under Subsection (f) of this
15 section must cover an annual period, be updated at least annually,
16 and be filed with the governor's office.

17 (h) The governor's office shall deliver a biennial report to
18 the legislature based on the information received under Subsection
19 (g) of this section. The report may be made separately or as part
20 of other biennial reports made to the legislature.

21 (i) The board shall adopt policies that clearly define the
22 respective responsibilities of the governing body of the
23 corporation and the staff of the corporation.

24 SECTION 8. Section 57.20, Education Code, is amended to read
25 as follows:

26 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
27 [EMPLOYEES]. (a) The board shall prepare information of public

1 interest describing the functions of the board and corporation and
 2 the procedures by which complaints are filed with and resolved by
 3 the board. The corporation shall make the information available to
 4 the public and appropriate state agencies.

5 (b) The board shall establish methods by which consumers and
 6 service recipients are notified of the name, mailing address, and
 7 telephone number of the corporation for the purpose of directing
 8 complaints to the board or corporation.

9 (c) The corporation shall keep an information file about
 10 each complaint filed with the corporation that the corporation has
 11 authority to resolve.

12 (d) If a written complaint is filed with the corporation
 13 that the corporation has authority to resolve, the corporation, at
 14 least quarterly and until final disposition of the complaint, shall
 15 notify the parties to the complaint of the status of the complaint
 16 unless the notice would jeopardize an undercover investigation.
 17 [The-board-may-appoint-employees-and-may-fix-their-compensation-and
 18 prescribe-their-duties-]

19 SECTION 9. Chapter 57, Education Code, is amended by adding
 20 Section 57.24 to read as follows:

21 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
 22 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
 23 may participate in a revenue-generating activity that is consistent
 24 with the corporation's purpose if the board determines that the
 25 revenue from the activity:

26 (1) is sufficient to cover the costs of the activity;
 27 and

1 (2) will contribute to a reduction in the insurance
2 premium paid by students under Section 57.43 of this code.

3 (b) If, under Subsection (a) of this section, the board
4 authorizes the corporation to perform additional services, the
5 corporation may not require postsecondary educational institutions
6 or students to use those services unless required by state or
7 federal law.

8 (c) The corporation may not guarantee loans for other
9 states.

10 SECTION 10. Section 57.41(c), Education Code, is amended to
11 read as follows:

12 (c) The corporation shall, to the extent funds are
13 available, make loans to eligible students, as a lender of last
14 resort, under the following conditions:

15 (1) the borrower certifies and provides evidence to
16 the corporation that he/she has made an application to at least two
17 qualified lenders and was unable to obtain a guaranteed student
18 loan from a commercial lender and is not aware of any eligible
19 lender in this state that is willing to make a guaranteed student
20 loan;

21 (2) the borrower also certifies to the corporation
22 that he/she was unable to obtain a guaranteed student loan from the
23 Texas Higher Education Coordinating Board[~~7--Texas--College--and~~
24 ~~University-System~~];

25 (3) the corporation certifies that it is not aware of
26 any eligible lender in this state that is willing to make a
27 guaranteed student loan; and

1 (4) the corporation must, to the extent a market is
2 available, sell loans made as last resort loans within a reasonable
3 period of time of the date of loan origination. This provision
4 will not apply to any loans that cannot be sold at par.

5 The corporation shall maintain a separate file showing the name and
6 address of the student receiving such a loan and the name and
7 address of the involved educational institution.

8 SECTION 11. Section 57.43, Education Code, is amended to
9 read as follows:

10 Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may
11 impose and collect insurance premiums from student borrowers in an
12 amount not to exceed the maximum allowable under the Higher
13 Education Act of 1965, as amended.

14 (b) If the corporation imposes an insurance premium under
15 this section, the corporation must impose the lowest insurance
16 premium practicable that:

17 (1) complies with federal requirements; and
18 (2) does not jeopardize the corporation's financial
19 viability.

20 SECTION 12. Section 57.45(a), Education Code, is amended to
21 read as follows:

22 (a) In order to qualify as an eligible lender under this
23 subchapter, the lender must:

24 (1) be an eligible lender for purposes of the Higher
25 Education Act of 1965, as amended; and

26 (2) ~~[have-its-principal-place-of-business--in--Texas,~~
27 ~~and~~

1 [~~3~~] enter into an agreement with the corporation for
2 participation in the program.

3 SECTION 13. Chapter 57, Education Code, is amended by adding
4 Section 57.461 to read as follows:

5 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
6 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

7 (1) an advisory committee that is composed of 15
8 members who represent the postsecondary educational institutions
9 that participate in the corporation's guaranteed student loan
10 program; and

11 (2) an advisory committee that is composed of 12
12 members including:

13 (A) one member who represents the Texas Higher
14 Education Coordinating Board; and

15 (B) 11 members who represent lenders that
16 participate in the corporation's guaranteed student loan program.

17 (b) The board shall appoint advisory committee members on
18 the recommendation of the executive director.

19 (c) The board may establish other advisory committees as the
20 board considers necessary.

21 (d) The board shall:

22 (1) specify each advisory committee's purpose and
23 duties; and

24 (2) require each committee to report to the board in a
25 manner specified by the board relating to each committee's
26 activities and work results.

27 SECTION 14. Section 57.47, Education Code, is amended by

1 amending Subsection (a) and adding Subsection (d) to read as
2 follows:

3 (a) If a student borrower defaults on a loan and the
4 corporation is required to honor the guarantee, the corporation or
5 the Texas Higher Education Coordinating Board[~~,-Texas-College-and~~
6 ~~University-System,~~] shall bring suit against the defaulting party
7 as soon as practicable.

8 (d) Notwithstanding any other law, if the corporation or the
9 Texas Higher Education Coordinating Board brings suit against a
10 defaulting party under this section, the corporation or the
11 coordinating board, as appropriate, shall pay 50 percent of the
12 statutory filing fee in effect on the date on which the suit is
13 filed. If the defaulting borrower prevails in the suit filed under
14 this section, the corporation or the coordinating board, as
15 appropriate, shall pay the remaining 50 percent of the statutory
16 filing fee on the date of the final disposition of the suit. If
17 the corporation or coordinating board prevails in the suit:

18 (1) the judgment shall find the defaulting borrower
19 liable to the corporation or the coordinating board, as
20 appropriate, for the amount of the filing fee; and

21 (2) the corporation or coordinating board, as
22 appropriate, shall pay the remaining 50 percent of the statutory
23 filing fee not later than one week after the date on which the
24 defaulting borrower pays to the corporation or coordinating board,
25 as appropriate, the full amount, including the filing fee, for
26 which the borrower is liable to the corporation or coordinating
27 board.

1 SECTION 15. Chapter 57, Education Code, is amended by adding
2 Section 57.481 to read as follows:

3 Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In
4 this section, "loan default rate" means the rate at which student
5 borrowers default on loans guaranteed by the corporation as
6 determined by the corporation in compliance with federal
7 guidelines.

8 (b) The corporation shall take an active role in
9 coordinating, facilitating, and providing technical assistance on
10 guaranteed student loan default prevention and reduction
11 initiatives and programs in the state and shall work with the
12 appropriate state agencies and other entities, including eligible
13 postsecondary educational institutions, eligible lenders,
14 servicers, secondary markets, the Texas Higher Education
15 Coordinating Board, the Central Education Agency, and state
16 professional and occupational licensing agencies.

17 (c) The corporation shall maintain a system of communication
18 among the appropriate state agencies and entities to reduce loan
19 default claims.

20 (d) The corporation shall:

21 (1) calculate the loan default rates for the
22 postsecondary educational institutions that participate in the
23 corporation's guaranteed student loan program; and

24 (2) semiannually notify the postsecondary educational
25 institutions of those loan default rates.

26 (e) The corporation after consultation with eligible
27 institutions and lenders and consistent with federal regulations

1 and policies shall establish a loan default rate for a
 2 postsecondary educational institution or lender that, if exceeded,
 3 requires the corporation to intervene as provided by Subsection (f)
 4 of this section or permits the corporation to intervene as provided
 5 by Subsection (g) of this section.

6 (f) If a postsecondary educational institution's loan
 7 default rate exceeds the rate established for the institution under
 8 Subsection (e) of this section, the corporation shall conduct
 9 program evaluations for the institution or provide technical
 10 assistance to the institution, or both.

11 (g) If a postsecondary educational institution's or lender's
 12 loan default rate exceeds the rate established under Subsection (e)
 13 of this section, the corporation may require the institution or
 14 lender, as a condition of eligibility to participate in the
 15 corporation's guaranteed student loan program, to take one or more
 16 actions, including to require:

17 (1) educational institutions to set tuition and fees
 18 refund policies for students who do not complete their course of
 19 study that:

20 (A) are more beneficial to students; and

21 (B) encourage repayment of student loans;

22 (2) lenders to disburse loans to students in more
 23 installments than required by federal guidelines, to the extent
 24 permitted by federal law and federal guidelines; or

25 (3) lenders to notify in clear language the affected
 26 postsecondary educational institutions and student borrowers if
 27 student loans are assigned or transferred to another eligible

1 lender.

2 (h) Before the corporation may require a postsecondary
3 educational institution or lender to take any action under
4 Subsection (g) of this section, the proposed action must be
5 reviewed by the postsecondary educational institution or lender
6 advisory committee established under Section 57.461 of this code,
7 as appropriate.

8 SECTION 16. Chapter 57, Education Code, is amended by adding
9 Section 57.491 to read as follows:

10 Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF
11 PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

12 (1) "License" means a certificate or similar form of
13 permission issued or renewed by a licensing agency and required by
14 law to engage in a profession or occupation.

15 (2) "Licensee" means a person to whom a licensing
16 agency issues a license.

17 (3) "Licensing agency" means a board, commission,
18 department, or other agency in the executive branch of state
19 government that issues or renews a license.

20 (b) The corporation shall identify the licensing agencies
21 subject to this section and provide written notice to those
22 agencies of the requirements prescribed by this section. Only
23 those licensing agencies that the corporation identifies and that
24 receive such notice are required to carry out this section.

25 (c) The corporation periodically shall:

26 (1) identify the persons who are in default on loans
27 guaranteed by the corporation; and

1 (2) provide a written list of the names of those
2 persons to the licensing agencies.

3 (d) A person who is in default on a loan may enter an
4 agreement with the corporation for repayment of a defaulted loan as
5 required under this section. The corporation shall provide the
6 person with a certificate certifying that the person has entered a
7 repayment agreement on the defaulted loan.

8 (e) A licensing agency shall not renew the license of a
9 licensee whose name is on the list provided by the corporation
10 under Subsection (c) of this section unless:

11 (1) the renewal is the first renewal following the
12 agency's receipt of the list including the licensee's name among
13 those in default; or

14 (2) the licensee presents to the agency a certificate
15 issued by the corporation certifying that:

16 (A) the licensee has entered a repayment
17 agreement on the defaulted loan; or

18 (B) the licensee is not in default on a loan
19 guaranteed by the corporation.

20 (f) A licensing agency may issue an initial license to a
21 person whose name is on the list provided by the corporation under
22 Subsection (c) of this section and who meets all other
23 qualifications for licensure, but shall not renew the license
24 unless the person presents to the agency a certificate issued by
25 the corporation certifying that:

26 (1) the licensee has entered a repayment agreement on
27 the defaulted loan; or

1 (2) the licensee is not in default on a loan
2 guaranteed by the corporation.

3 (g) A licensing agency shall not renew the license of a
4 licensee who defaults on a repayment agreement unless the person
5 presents to the agency a certificate issued by the corporation
6 certifying that:

7 (1) the licensee has entered another repayment
8 agreement on the defaulted loan; or

9 (2) the licensee is not in default on a loan
10 guaranteed by the corporation or on a repayment agreement.

11 (h) A licensing agency shall provide written notice of the
12 nonrenewal policies established under Subsections (e), (f), and (g)
13 of this section to each applicant for a license or for renewal of a
14 license. The corporation shall provide written notice of those
15 same policies on each loan application form provided by the
16 corporation and on each promissory note signed by a borrower.
17 Failure to provide the notice required by this subsection does not
18 affect the default status of a borrower or the prohibitions on
19 renewal of a license held by a person in default.

20 (i) A licensing agency shall provide an opportunity for a
21 hearing to a licensee before the agency takes action concerning the
22 nonrenewal of a license under this section.

23 (j) Each licensing agency shall adopt any rules necessary to
24 carry out the licensing agency's duties under this section.

25 (k) The board shall establish procedures to carry out the
26 corporation's duties under this section.

27 (l) This section does not apply to the State Securities

1 Board.

2 SECTION 17. Section 57.50, Education Code, is amended to
3 read as follows:

4 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
5 an eligible lender may discriminate against an eligible student in
6 making a loan or loan guarantee on the basis of race, age,
7 religion, [~~income~~] or sex.

8 SECTION 18. Section 57.76, Education Code, is amended to
9 read as follows:

10 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
11 corporation shall have a fiscal audit performed by a certified
12 public accountant.

13 (b) A copy of the annual audit shall be submitted to the
14 state auditor for review. The state auditor may:

15 (1) examine any working papers from the annual audit;
16 and

17 (2) conduct a separate audit if, after reviewing the
18 independent audit, the state auditor considers a separate audit
19 necessary.

20 SECTION 19. Chapter 57, Education Code, is amended by adding
21 Section 57.761 to read as follows:

22 Sec. 57.761. INTERNAL AUDITOR. (a) The executive director
23 shall appoint an internal auditor for the corporation. The
24 appointment of an internal auditor must be approved by the board.

25 (b) The internal auditor shall report to the executive
26 director. The board may require the internal auditor to submit
27 directly to the board certain reports specified by the board.

1 (c) The board's executive committee, a subcommittee of the
2 board, shall meet with the internal auditor on a regular basis.

3 (d) The internal auditor shall examine the corporation's
4 system of internal controls and its system of identifying fixed and
5 variable costs, including administrative costs.

6 SECTION 20. Section 82.022, Government Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) The supreme court may adopt rules relating to the
9 nonrenewal of the license of a lawyer who is in default on a loan
10 guaranteed under Chapter 57, Education Code, by the Texas
11 Guaranteed Student Loan Corporation.

12 SECTION 21. Sections 57.21 and 57.51, Education Code, are
13 repealed.

14 SECTION 22. (a) A member of the board of the Texas
15 Guaranteed Student Loan Corporation appointed by the governor or by
16 the commissioner of higher education and serving on the board on
17 the effective date of this Act serves until the member vacates the
18 office or until the member's term expires. As vacancies occur or
19 board members' terms expire, the governor shall appoint new members
20 to achieve the membership scheme prescribed by Section 57.13(b),
21 Education Code, as amended by this Act. To fill the new membership
22 position created on the board by this Act's amendment of Section
23 57.13(b), the governor shall appoint the full-time student member
24 of the board for a term expiring January 31, 1993. The position on
25 the board filled through appointment by the chairman of the Texas
26 Higher Education Coordinating Board is abolished on the effective
27 date of this Act.

1 (b) The first policy statement required to be filed under
2 Section 57.19, Education Code, as amended by this Act, must be
3 filed before November 1, 1989.

4 (c) A state agency that issues professional or occupational
5 licenses may not:

6 (1) take action concerning the nonrenewal of a license
7 before September 1, 1991, under Section 57.491, Education Code, as
8 added by this Act; or

9 (2) issue notice as provided by Section 57.491(h),
10 Education Code, as added by this Act, before September 1, 1990, to
11 persons who apply for a license.

12 SECTION 23. This Act takes effect September 1, 1989.

13 SECTION 24. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended.

ADOPTED

MAY 22 1989

[Signature]

By Guerrero

C.S.H.B. No. 715

[Signature]

A BILL TO BE ENTITLED

AN ACT

relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.11, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The corporation is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the corporation is abolished and this chapter expires September 1, 2001 [1989].

SECTION 3. Section 57.13, Education Code, is amended to read as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a board of 10 [11] directors appointed in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint nine [eight] members to the board. Five members must have knowledge of or experience in finance, including management of funds or business operations. One member must be a student who is

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1 enrolled at a postsecondary educational institution for the number
 2 of credit hours required by the institution to be classified as a
 3 full-time student of the institution. Three members must be
 4 [~~persons--working--in-commercial-finance--three-must-be~~] members of
 5 the faculty or administration of an eligible postsecondary
 6 educational institution, as defined by Section 57.46 of this code[
 7 ~~and--two--must-be-members-of-the-general-public-who-do-not-derive-a~~
 8 ~~majority-of--their--income--from--higher--education--or--commercial~~
 9 ~~finance~~].

10 (c) Appointments to the board shall be made without regard
 11 to the race, color, handicap, sex, religion, age, or national
 12 origin of the appointees. [~~The-chairman-of-the-Coordinating-Board,~~
 13 ~~Texas--College-and-University-System--shall-appoint-a-member-of-the~~
 14 ~~coordinating-board-to-the-corporation-board-of-directors-~~

15 [~~(d)--The-commissioner-of-higher-education--shall--appoint--a~~
 16 ~~student--enrolled--in-a-public-or-private-postsecondary-educational~~
 17 ~~institution-to-the--board--Before--making--the--appointment--the~~
 18 ~~commissioner---of---higher--education--shall--consult--with--higher~~
 19 ~~education-student-organizations-from-all-regions-of-the-state-~~]

20 (d) [~~(e)~~] The comptroller of public accounts or the
 21 comptroller's designee shall serve as an ex officio voting [a]
 22 member of the board.

23 (e) [~~(f)~~] Each member of the board must be a Texas resident.

24 SECTION 4. Chapter 57, Education Code, is amended by adding
 25 Section 57.131 to read as follows:

26 Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP,
 27 AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

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1 a Texas trade association of institutions that originate or hold
2 student loans or a Texas trade association in the field of higher
3 education may not be a member of the board or a corporation
4 employee who is exempt from the corporation's position
5 classification schedule.

6 (b) A person who is the spouse of an officer, manager, or
7 paid consultant of a Texas trade association described by
8 Subsection (a) of this section may not be a member of the board and
9 may not be a corporation employee who is exempt from the
10 corporation's position classification schedule.

11 (c) A person may not serve as a member of the board or act
12 as the general counsel to the board if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the corporation.

16 (d) A person may not be one of the members of the board
17 required by Section 57.13(b) of this code to have knowledge of or
18 experience in finance if the person is a member of the board of
19 directors or an employee of an eligible lender that participates in
20 the guaranteed student loan program.

21 (e) For the purposes of this section, a Texas trade
22 association is a nonprofit, cooperative, and voluntarily joined
23 association of business or professional competitors in this state
24 designed to assist its members and its industry or profession in
25 dealing with mutual business or professional problems and in
26 promoting their common interest.

27 SECTION 5. Chapter 57, Education Code, is amended by adding

1 Section 57.141 to read as follows:

2 Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground
3 for removal from the board if a member:

4 (1) does not have at the time of appointment the
5 qualifications required by Section 57.13(b) of this code;

6 (2) does not maintain during service on the board the
7 qualifications required by Section 57.13(b) of this code;

8 (3) violates a prohibition established by Section
9 57.131 of this code;

10 (4) cannot discharge the member's duties for a
11 substantial part of the term for which the member is appointed
12 because of illness or disability; or

13 (5) is absent from more than half of the regularly
14 scheduled board meetings that the member is eligible to attend
15 during a calendar year unless the absence is excused by majority
16 vote of the board.

17 (b) The validity of an action of the board is not affected
18 by the fact that it was taken when a ground for removal of a board
19 member existed.

20 (c) If the executive director has knowledge that a potential
21 ground for removal exists, the executive director shall notify the
22 chairman of the board of the ground. The chairman shall then
23 notify the governor that a potential ground for removal exists.

24 SECTION 6. Section 57.18, Education Code, is amended to read
25 as follows:

26 Sec. 57.18. MEETINGS. (a) The board may meet as often as
27 necessary, but shall meet at least twice a year.

53

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees. The board may not delegate
16 policy decisions or decisions to initiate new revenue-generating
17 services to the executive director and corporation employees.

18 (d) The executive director or the executive director's
19 designee shall develop an intra-agency career ladder program. The
20 program shall require intra-agency postings of all nonentry level
21 positions concurrently with any public posting.

22 (e) The executive director or the executive director's
23 designee shall develop a system of annual performance evaluations.
24 All merit pay for corporation employees must be based on the system
25 established under this subsection.

26 (f) The executive director or the executive director's
27 designee shall prepare and maintain a written policy statement to

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1 assure implementation of a program of equal employment opportunity
2 under which all personnel transactions are made without regard to
3 race, color, handicap, sex, religion, age, or national origin. The
4 policy statement must include:

5 (1) personnel policies, including policies relating to
6 recruitment, evaluation, selection, appointment, training, and
7 promotion of personnel;

8 (2) a comprehensive analysis of the corporation's work
9 force that meets federal and state guidelines;

10 (3) procedures by which a determination can be made of
11 significant underuse in the corporation's work force of all persons
12 for whom federal or state guidelines encourage a more equitable
13 balance; and

14 (4) reasonable methods to appropriately address those
15 areas of significant underuse.

16 (g) A policy statement prepared under Subsection (f) of this
17 section must cover an annual period, be updated at least annually,
18 and be filed with the governor's office.

19 (h) The governor's office shall deliver a biennial report to
20 the legislature based on the information received under Subsection
21 (g) of this section. The report may be made separately or as part
22 of other biennial reports made to the legislature.

23 (i) The board shall adopt policies that clearly define the
24 respective responsibilities of the governing body of the
25 corporation and the staff of the corporation.

26 SECTION 8. Section 57.20, Education Code, is amended to read
27 as follows:

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1 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
 2 [EMPLOYEES]. (a) The board shall prepare information of public
 3 interest describing the functions of the board and corporation and
 4 the procedures by which complaints are filed with and resolved by
 5 the board. The corporation shall make the information available to
 6 the public and appropriate state agencies.

7 (b) The board shall establish methods by which consumers and
 8 service recipients are notified of the name, mailing address, and
 9 telephone number of the corporation for the purpose of directing
 10 complaints to the board or corporation.

11 (c) The corporation shall keep an information file about
 12 each complaint filed with the corporation that the corporation has
 13 authority to resolve.

14 (d) If a written complaint is filed with the corporation
 15 that the corporation has authority to resolve, the corporation, at
 16 least quarterly and until final disposition of the complaint, shall
 17 notify the parties to the complaint of the status of the complaint
 18 unless the notice would jeopardize an undercover investigation.
 19 [The-board-may-appoint-employees-and-may-fix-their-compensation-and
 20 prescribe-their-duties.]

21 SECTION 9. Chapter 57, Education Code, is amended by adding
 22 Section 57.24 to read as follows:

23 Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER
 24 REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation
 25 may participate in a revenue-generating activity that is consistent
 26 with the corporation's purpose if the board determines that the
 27 revenue from the activity:

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1 (1) is sufficient to cover the costs of the activity;

2 and

3 (2) will contribute to a reduction in the insurance
4 premium paid by students under Section 57.43 of this code.

5 (b) If, under Subsection (a) of this section, the board
6 authorizes the corporation to perform additional services, the
7 corporation may not require postsecondary educational institutions
8 or students to use those services unless required by state or
9 federal law.

10 (c) The corporation may not guarantee loans for other
11 states.

12 SECTION 10. Section 57.41(c), Education Code, is amended to
13 read as follows:

14 (c) The corporation shall, to the extent funds are
15 available, make loans to eligible students, as a lender of last
16 resort, under the following conditions:

17 (1) the borrower certifies and provides evidence to
18 the corporation that he/she has made an application to at least two
19 qualified lenders and was unable to obtain a guaranteed student
20 loan from a commercial lender and is not aware of any eligible
21 lender in this state that is willing to make a guaranteed student
22 loan;

23 (2) the borrower also certifies to the corporation
24 that he/she was unable to obtain a guaranteed student loan from the
25 Texas Higher Education Coordinating Board[7--Texas--College--and
26 University-System];

27 (3) the corporation certifies that it is not aware of

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1 any eligible lender in this state that is willing to make a
2 guaranteed student loan; and

3 (4) the corporation must, to the extent a market is
4 available, sell loans made as last resort loans within a reasonable
5 period of time of the date of loan origination. This provision
6 will not apply to any loans that cannot be sold at par.

7 The corporation shall maintain a separate file showing the name and
8 address of the student receiving such a loan and the name and
9 address of the involved educational institution.

10 SECTION 11. Section 57.43, Education Code, is amended to
11 read as follows:

12 Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may
13 impose and collect insurance premiums from student borrowers in an
14 amount not to exceed the maximum allowable under the Higher
15 Education Act of 1965, as amended.

16 (b) If the corporation imposes an insurance premium under
17 this section, the corporation must impose the lowest insurance
18 premium practicable that:

19 (1) complies with federal requirements; and
20 (2) does not jeopardize the corporation's financial
21 viability.

22 SECTION 12. Section 57.45(a), Education Code, is amended to
23 read as follows:

24 (a) In order to qualify as an eligible lender under this
25 subchapter, the lender must:

26 (1) be an eligible lender for purposes of the Higher
27 Education Act of 1965, as amended; and

1 (2) [~~have-its-principal-place-of--business--in--Texas,~~
2 and

3 [~~3~~] enter into an agreement with the corporation for
4 participation in the program.

5 SECTION 13. Chapter 57, Education Code, is amended by adding
6 Section 57.461 to read as follows:

7 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
8 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

9 (1) an advisory committee that is composed of 15
10 members who represent the postsecondary educational institutions
11 that participate in the corporation's guaranteed student loan
12 program; and

13 (2) an advisory committee that is composed of 12
14 members including:

15 (A) one member who represents the Texas Higher
16 Education Coordinating Board; and

17 (B) 11 members who represent lenders that
18 participate in the corporation's guaranteed student loan program.

19 (b) The board shall appoint advisory committee members on
20 the recommendation of the executive director.

21 (c) The board may establish other advisory committees as the
22 board considers necessary.

23 (d) The board shall:

24 (1) specify each advisory committee's purpose and
25 duties; and

26 (2) require each committee to report to the board in a
27 manner specified by the board relating to each committee's

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1 activities and work results.

2 SECTION 14. Section 57.47, Education Code, is amended by
3
4 amending Subsection (a) and adding Subsection (d) to read as
5 follows:

6 (a) If a student borrower defaults on a loan and the
7 corporation is required to honor the guarantee, the corporation or
8 the Texas Higher Education Coordinating Board[7-Texas-College-and
9 University-System7] shall bring suit against the defaulting party
10 as soon as practicable.

11 (d) Notwithstanding any other law, if the corporation or the
12 Texas Higher Education Coordinating Board brings suit against a
13 defaulting party under this section, the corporation or the
14 coordinating board, as appropriate, shall pay 50 percent of the
15 statutory filing fee in effect on the date on which the suit is
16 filed. If the defaulting borrower prevails in the suit filed under
17 this section, the corporation or the coordinating board, as
18 appropriate, shall pay the remaining 50 percent of the statutory
19 filing fee on the date of the final disposition of the suit. If
20 the corporation or coordinating board prevails in the suit:

21 (1) the judgment shall find the defaulting borrower
22 liable to the corporation or the coordinating board, as
23 appropriate, for the amount of the filing fee; and

24 (2) the corporation or coordinating board, as
25 appropriate, shall pay the remaining 50 percent of the statutory
26 filing fee not later than one week after the date on which the
27 defaulting borrower pays to the corporation or coordinating board,
as appropriate, the full amount, including the filing fee, for

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1 which the borrower is liable to the corporation or coordinating
2 board.

3 SECTION 15. Chapter 57, Education Code, is amended by adding
4 Section 57.481 to read as follows:

5 Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In
6 this section, "loan default rate" means the rate at which student
7 borrowers default on loans guaranteed by the corporation as
8 determined by the corporation in compliance with federal
9 guidelines.

10 (b) The corporation shall take an active role in
11 coordinating, facilitating, and providing technical assistance on
12 guaranteed student loan default prevention and reduction
13 initiatives and programs in the state and shall work with the
14 appropriate state agencies and other entities, including eligible
15 postsecondary educational institutions, eligible lenders,
16 servicers, secondary markets, the Texas Higher Education
17 Coordinating Board, the Central Education Agency, and state
18 professional and occupational licensing agencies.

19 (c) The corporation shall maintain a system of communication
20 among the appropriate state agencies and entities to reduce loan
21 default claims.

22 (d) The corporation shall:

23 (1) calculate the loan default rates for the
24 postsecondary educational institutions that participate in the
25 corporation's guaranteed student loan program; and

26 (2) semiannually notify the postsecondary educational
27 institutions of those loan default rates.

28 (e) The corporation after consultation with eligible
29 institutions and lenders and consistent with federal regulations

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1 and policies shall establish a loan default rate for a
2 postsecondary educational institution or lender that, if exceeded,
3 requires the corporation to intervene as provided by Subsection (f)
4 of this section or permits the corporation to intervene as provided
5 by Subsection (g) of this section.

6 (f) If a postsecondary educational institution's loan
7 default rate exceeds the rate established for the institution under
8 Subsection (e) of this section, the corporation shall conduct
9 program evaluations for the institution or provide technical
10 assistance to the institution, or both.

11 (g) If a postsecondary educational institution's or lender's
12 loan default rate exceeds the rate established under Subsection (e)
13 of this section, the corporation may require the institution or
14 lender, as a condition of eligibility to participate in the
15 corporation's guaranteed student loan program, to take one or more
16 actions, including to require:

17 (1) educational institutions to set tuition and fees
18 refund policies for students who do not complete their course of
19 study that:

20 (A) are more beneficial to students; and

21 (B) encourage repayment of student loans;

22 (2) lenders to disburse loans to students in more
23 installments than required by federal guidelines, to the extent
24 permitted by federal law and federal guidelines; or

25 (3) lenders to notify in clear language the affected
26 postsecondary educational institutions and student borrowers if
27 student loans are assigned or transferred to another eligible

1 lender.

2 (h) Before the corporation may require a postsecondary
3 educational institution or lender to take any action under
4 Subsection (g) of this section, the proposed action must be
5 reviewed by the postsecondary educational institution or lender
6 advisory committee established under Section 57.461 of this code,
7 as appropriate.

8 SECTION 16. Chapter 57, Education Code, is amended by adding
9 Section 57.491 to read as follows:

10 Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF
11 PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

12 (1) "License" means a certificate or similar form of
13 permission issued or renewed by a licensing agency and required by
14 law to engage in a profession or occupation.

15 (2) "Licensee" means a person to whom a licensing
16 agency issues a license.

17 (3) "Licensing agency" means a board, commission,
18 department, or other agency in the executive branch of state
19 government that issues or renews a license.

20 (b) The corporation shall identify the licensing agencies
21 subject to this section and provide written notice to those
22 agencies of the requirements prescribed by this section. Only
23 those licensing agencies that the corporation identifies and that
24 receive such notice are required to carry out this section.

25 (c) The corporation periodically shall:

26 (1) identify the persons who are in default on loans
27 guaranteed by the corporation; and

1 (2) provide a written list of the names of those
2 persons to the licensing agencies.

3 (d) A person who is in default on a loan may enter an
4 agreement with the corporation for repayment of a defaulted loan as
5 required under this section. The corporation shall provide the
6 person with a certificate certifying that the person has entered a
7 repayment agreement on the defaulted loan.

8 (e) A licensing agency shall not renew the license of a
9 licensee whose name is on the list provided by the corporation
10 under Subsection (c) of this section unless:

11 (1) the renewal is the first renewal following the
12 agency's receipt of the list including the licensee's name among
13 those in default; or

14 (2) the licensee presents to the agency a certificate
15 issued by the corporation certifying that:

16 (A) the licensee has entered a repayment
17 agreement on the defaulted loan; or

18 (B) the licensee is not in default on a loan
19 guaranteed by the corporation.

20 (f) A licensing agency may issue an initial license to a
21 person whose name is on the list provided by the corporation under
22 Subsection (c) of this section and who meets all other
23 qualifications for licensure, but shall not renew the license
24 unless the person presents to the agency a certificate issued by
25 the corporation certifying that:

26 (1) the licensee has entered a repayment agreement on
27 the defaulted loan; or

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1 (2) the licensee is not in default on a loan
2 guaranteed by the corporation.

3 (g) A licensing agency shall not renew the license of a
4 licensee who defaults on a repayment agreement unless the person
5 presents to the agency a certificate issued by the corporation
6 certifying that:

7 (1) the licensee has entered another repayment
8 agreement on the defaulted loan; or

9 (2) the licensee is not in default on a loan
10 guaranteed by the corporation or on a repayment agreement.

11 (h) A licensing agency shall provide written notice of the
12 nonrenewal policies established under Subsections (e), (f), and (g)
13 of this section to each applicant for a license or for renewal of a
14 license. The corporation shall provide written notice of those
15 same policies on each loan application form provided by the
16 corporation and on each promissory note signed by a borrower.
17 Failure to provide the notice required by this subsection does not
18 affect the default status of a borrower or the prohibitions on
19 renewal of a license held by a person in default.

20 (i) A licensing agency shall provide an opportunity for a
21 hearing to a licensee before the agency takes action concerning the
22 nonrenewal of a license under this section.

23 (j) Each licensing agency shall adopt any rules necessary to
24 carry out the licensing agency's duties under this section.

25 (k) The board shall establish procedures to carry out the
26 corporation's duties under this section.

27 (l) This section does not apply to the State Securities

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1 Board.

2 SECTION 17. Section 57.50, Education Code, is amended to
3 read as follows:

4 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
5 an eligible lender may discriminate against an eligible student in
6 making a loan or loan guarantee on the basis of race, age,
7 religion, [~~income~~] or sex.

8 SECTION 18. Section 57.76, Education Code, is amended to
9 read as follows:

10 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
11 corporation shall have a fiscal audit performed by a certified
12 public accountant.

13 (b) A copy of the annual audit shall be submitted to the
14 state auditor for review. The state auditor may:

15 (1) examine any working papers from the annual audit;
16 and

17 (2) conduct a separate audit if, after reviewing the
18 independent audit, the state auditor considers a separate audit
19 necessary.

20 SECTION 19. Chapter 57, Education Code, is amended by adding
21 Section 57.761 to read as follows:

22 Sec. 57.761. INTERNAL AUDITOR. (a) The executive director
23 shall appoint an internal auditor for the corporation. The
24 appointment of an internal auditor must be approved by the board.

25 (b) The internal auditor shall report to the executive
26 director. The board may require the internal auditor to submit
27 directly to the board certain reports specified by the board.

1 (c) The board's executive committee, a subcommittee of the
2 board, shall meet with the internal auditor on a regular basis.

3 (d) The internal auditor shall examine the corporation's
4 system of internal controls and its system of identifying fixed and
5 variable costs, including administrative costs.

6 SECTION 20. Section 82.022, Government Code, is amended by
7 adding Subsection (c) to read as follows:

8 (c) The supreme court may adopt rules relating to the
9 nonrenewal of the license of a lawyer who is in default on a loan
10 guaranteed under Chapter 57, Education Code, by the Texas
11 Guaranteed Student Loan Corporation.

12 SECTION 21. Sections 57.21 and 57.51, Education Code, are
13 repealed.

14 SECTION 22. (a) A member of the board of the Texas
15 Guaranteed Student Loan Corporation appointed by the governor or by
16 the commissioner of higher education and serving on the board on
17 the effective date of this Act serves until the member vacates the
18 office or until the member's term expires. As vacancies occur or
19 board members' terms expire, the governor shall appoint new members
20 to achieve the membership scheme prescribed by Section 57.13(b),
21 Education Code, as amended by this Act. To fill the new membership
22 position created on the board by this Act's amendment of Section
23 57.13(b), the governor shall appoint the full-time student member
24 of the board for a term expiring January 31, 1993. The position on
25 the board filled through appointment by the chairman of the Texas
26 Higher Education Coordinating Board is abolished on the effective
27 date of this Act.

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1 (b) The first policy statement required to be filed under
2 Section 57.19, Education Code, as amended by this Act, must be
3 filed before November 1, 1989.

4 (c) A state agency that issues professional or occupational
5 licenses may not:

6 (1) take action concerning the nonrenewal of a license
7 before September 1, 1991, under Section 57.491, Education Code, as
8 added by this Act; or

9 (2) issue notice as provided by Section 57.491(h),
10 Education Code, as added by this Act, before September 1, 1990, to
11 persons who apply for a license.

12 SECTION 23. This Act takes effect September 1, 1989.

13 SECTION 24. The importance of this legislation and the
14 crowded condition of the calendars in both houses create an
15 emergency and an imperative public necessity that the
16 constitutional rule requiring bills to be read on three several
17 days in each house be suspended, and this rule is hereby suspended.

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Floor Amendment 1

By Parker

Amend HB 715 on page 5, beginning on line 15 by deleting the following language: "The board may not delegate policy decisions or decisions to initiate new revenue generating services to the executive director and corporation employees."

ADOPTED

MAY 22 1989

Stacy King
Speaker of the House

ADOPTED

MAY 22 1989

Floor Amendment No.

2

Ray King
Member of the House

By:

Parker

Amend C.S.H.B. 715, Section 14, Subsection (d), Sec. 57.47, Texas Education Code, as follows:

In the phrase "shall pay 50 percent of the statutory filing fee," delete the word "statutory."

Insert between the words "filing fee" and "in effect," the phrase "or other costs of court taxed and collected in advance that are."

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AMEND THE CAPTION TO CONFORM
TO THE BODY OF THE BILL

ADOPTED

MAY 22 1989

Anthony King
Secretary of the Rules

11

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

May 12, 1989

TO: Honorable Carl A. Parker, Chairman
Committee on Education
Senate Chamber
Austin, Texas

In Re: House Bill No. 715,
as engrossed
By: Guerrero

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 715, as engrossed (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

The Texas Guaranteed Student Loan Corporation is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1989.

The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, CKM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

April 25, 1989

TO: Honorable Bruce Gibson, Chair
Committee on Government Organization
House of Representatives
Austin, Texas

In Re: Committee Substitute
for House Bill No. 715

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on Committee Substitute for House Bill No. 715 (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

The Texas Guaranteed Student Loan Corporation is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1989.

The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, PA

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE

March 14, 1989

TO: Honorable Bruce Gibson, Chair
Committee on Government Organization
House of Representatives
Austin, Texas

In Re: House Bill No. 715
By: Guerrero

FROM: Jim Oliver, Director

In response to your request for a Fiscal Note on House Bill No. 715 (relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation) this office has determined the following:

The Texas Guaranteed Student Loan Corporation is subject to the provisions of the Texas Sunset Act, and unless continued in existence by the legislature, will be abolished effective September 1, 1989.

The bill would continue the Texas Guaranteed Student Loan Corporation and make several changes to the enabling statute. Changes include changes in the composition of the board, increasing the powers of the corporation to deal with loan defaults, enhancing the accountability of the corporation to the state, and authorizing the corporation to engage in additional revenue-generating activities consistent with its mission in order to help keep guarantee fees charged to student borrowers to a minimum. Also, the Central Education Agency is required to analyze data on loan default rates of students attending proprietary schools. In addition, the bill provides that state professional and occupational licensing agencies be given responsibility to not renew licenses of persons who are in default on student loans after a one-year warning period.

The Texas Guaranteed Student Loan Corporation is not a state agency nor a unit of local government and receives no appropriations of state funds. Consequently, there is no anticipated fiscal implication to the state of implementing the provisions of the bill. The cost to the corporation to implement the provision of the bill will be minimal.

No fiscal implication to the State or units of local government is anticipated.

Criminal Justice Policy Impact Statement: No change in the sanctions applicable to adults convicted of felony crimes is anticipated.

Source: Sunset Advisory Commission;
LBB Staff: JO, JWH, AL, CKM

ENROLLED

H.B. No. 715

AN ACT

relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 57.11, Education Code, is amended by adding Subsection (d) to read as follows:

(d) The corporation is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967 (Article 6252-17, Vernon's Texas Civil Statutes).

SECTION 2. Section 57.12(a), Education Code, is amended to read as follows:

(a) The Texas Guaranteed Student Loan Corporation is subject to the Texas Sunset Act (Chapter 325, Government Code). Unless continued in existence as provided by that Act, the corporation is abolished and this chapter expires September 1, 2001 [~~1989~~].

SECTION 3. Section 57.13, Education Code, is amended to read as follows:

Sec. 57.13. COMPOSITION OF BOARD OF DIRECTORS. (a) The corporation is governed by a board of 10 [~~11~~] directors appointed in accordance with this section.

(b) The governor, with the advice and consent of the senate, shall appoint nine [~~eight~~] members to the board. Five members must have knowledge of or experience in finance, including management of funds or business operations. One member must be a student who is

enrolled at a postsecondary educational institution for the number of credit hours required by the institution to be classified as a full-time student of the institution. Three members must be ~~[persons--working--in--commercial--finance;--three--must--be]~~ members of the faculty or administration of an eligible postsecondary educational institution, as defined by Section 57.46 of this code~~[;--and--two--must--be--members--of--the--general--public--who--do--not--derive--a--majority--of--their--income--from--higher--education--or--commercial--finance]~~.

(c) Appointments to the board shall be made without regard to the race, color, handicap, sex, religion, age, or national origin of the appointees. ~~[The--chairman--of--the--Coordinating--Board, Texas--College--and--University--System;--shall--appoint--a--member--of--the--coordinating--board--to--the--corporation--board--of--directors--~~

~~[(d)--The--commissioner--of--higher--education--shall--appoint--a--student--enrolled--in--a--public--or--private--postsecondary--educational--institution--to--the--board;--Before--making--the--appointment;--the--commissioner--of--higher--education--shall--consult--with--higher--education--student--organizations--from--all--regions--of--the--state.]~~

(d) ~~[(e)]~~ The comptroller of public accounts or the comptroller's designee shall serve as an ex officio voting [a] member of the board.

(e) ~~[(f)]~~ Each member of the board must be a Texas resident.

SECTION 4. Chapter 57, Education Code, is amended by adding Section 57.131 to read as follows:

Sec. 57.131. RESTRICTIONS ON BOARD APPOINTMENT, MEMBERSHIP, AND EMPLOYMENT. (a) An officer, employee, or paid consultant of

1 a Texas trade association of institutions that originate or hold
2 student loans or a Texas trade association in the field of higher
3 education may not be a member of the board or a corporation
4 employee who is exempt from the corporation's position
5 classification schedule.

6 (b) A person who is the spouse of an officer, manager, or
7 paid consultant of a Texas trade association described by
8 Subsection (a) of this section may not be a member of the board and
9 may not be a corporation employee who is exempt from the
10 corporation's position classification schedule.

11 (c) A person may not serve as a member of the board or act
12 as the general counsel to the board if the person is required to
13 register as a lobbyist under Chapter 305, Government Code, because
14 of the person's activities for compensation on behalf of a
15 profession related to the operation of the corporation.

16 (d) A person may not be one of the members of the board
17 required by Section 57.13(b) of this code to have knowledge of or
18 experience in finance if the person is a member of the board of
19 directors or an employee of an eligible lender that participates in
20 the guaranteed student loan program.

21 (e) For the purposes of this section, a Texas trade
22 association is a nonprofit, cooperative, and voluntarily joined
23 association of business or professional competitors in this state
24 designed to assist its members and its industry or profession in
25 dealing with mutual business or professional problems and in
26 promoting their common interest.

27 SECTION 5. Chapter 57, Education Code, is amended by adding

Section 57.141 to read as follows:

Sec. 57.141. REMOVAL OF BOARD MEMBER. (a) It is a ground for removal from the board if a member:

(1) does not have at the time of appointment the qualifications required by Section 57.13(b) of this code;

(2) does not maintain during service on the board the qualifications required by Section 57.13(b) of this code;

(3) violates a prohibition established by Section 57.131 of this code;

(4) cannot discharge the member's duties for a substantial part of the term for which the member is appointed because of illness or disability; or

(5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year unless the absence is excused by majority vote of the board.

(b) The validity of an action of the board is not affected by the fact that it was taken when a ground for removal of a board member existed.

(c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the chairman of the board of the ground. The chairman shall then notify the governor that a potential ground for removal exists.

SECTION 6. Section 57.18, Education Code, is amended to read as follows:

Sec. 57.18. MEETINGS. (a) The board may meet as often as necessary, but shall meet at least twice a year.

1 (b) The board shall develop and implement policies that
2 provide the public with a reasonable opportunity to appear before
3 the board and to speak on any issue under the jurisdiction of the
4 corporation.

5 SECTION 7. Section 57.19, Education Code, is amended to read
6 as follows:

7 Sec. 57.19. EXECUTIVE DIRECTOR; PERSONNEL. (a) The board
8 shall appoint an executive director to serve as chief executive
9 officer in administering the program and carrying out the policies
10 of the board. The executive director serves at the will of the
11 board.

12 (b) The board may appoint employees and may fix their
13 compensation and prescribe their duties.

14 (c) The board may delegate any of its powers to the
15 executive director and corporation employees.

16 (d) The executive director or the executive director's
17 designee shall develop an intra-agency career ladder program. The
18 program shall require intra-agency postings of all nonentry level
19 positions concurrently with any public posting.

20 (e) The executive director or the executive director's
21 designee shall develop a system of annual performance evaluations.
22 All merit pay for corporation employees must be based on the system
23 established under this subsection.

24 (f) The executive director or the executive director's
25 designee shall prepare and maintain a written policy statement to
26 assure implementation of a program of equal employment opportunity
27 under which all personnel transactions are made without regard to

1 race, color, handicap, sex, religion, age, or national origin. The
2 policy statement must include:

3 (1) personnel policies, including policies relating to
4 recruitment, evaluation, selection, appointment, training, and
5 promotion of personnel;

6 (2) a comprehensive analysis of the corporation's work
7 force that meets federal and state guidelines;

8 (3) procedures by which a determination can be made of
9 significant underuse in the corporation's work force of all persons
10 for whom federal or state guidelines encourage a more equitable
11 balance; and

12 (4) reasonable methods to appropriately address those
13 areas of significant underuse.

14 (g) A policy statement prepared under Subsection (f) of this
15 section must cover an annual period, be updated at least annually,
16 and be filed with the governor's office.

17 (h) The governor's office shall deliver a biennial report to
18 the legislature based on the information received under Subsection
19 (g) of this section. The report may be made separately or as part
20 of other biennial reports made to the legislature.

21 (i) The board shall adopt policies that clearly define the
22 respective responsibilities of the governing body of the
23 corporation and the staff of the corporation.

24 SECTION 8. Section 57.20, Education Code, is amended to read
25 as follows:

26 Sec. 57.20. PUBLIC INTEREST INFORMATION AND COMPLAINTS
27 [EMPLOYEES]. (a) The board shall prepare information of public

interest describing the functions of the board and corporation and the procedures by which complaints are filed with and resolved by the board. The corporation shall make the information available to the public and appropriate state agencies.

(b) The board shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the corporation for the purpose of directing complaints to the board or corporation.

(c) The corporation shall keep an information file about each complaint filed with the corporation that the corporation has authority to resolve.

(d) If a written complaint is filed with the corporation that the corporation has authority to resolve, the corporation, at least quarterly and until final disposition of the complaint, shall notify the parties to the complaint of the status of the complaint unless the notice would jeopardize an undercover investigation.

~~[The board may appoint employees and may fix their compensation and prescribe their duties.]~~

SECTION 9. Chapter 57, Education Code, is amended by adding Section 57.24 to read as follows:

Sec. 57.24. AUTHORITY TO PARTICIPATE IN OTHER REVENUE-GENERATING ACTIVITIES; LIMITATIONS. (a) The corporation may participate in a revenue-generating activity that is consistent with the corporation's purpose if the board determines that the revenue from the activity:

(1) is sufficient to cover the costs of the activity;
and

1 (2) will contribute to a reduction in the insurance
2 premium paid by students under Section 57.43 of this code.

3 (b) If, under Subsection (a) of this section, the board
4 authorizes the corporation to perform additional services, the
5 corporation may not require postsecondary educational institutions
6 or students to use those services unless required by state or
7 federal law.

8 (c) The corporation may not guarantee loans for other
9 states.

10 SECTION 10. Section 57.41(c), Education Code, is amended to
11 read as follows:

12 (c) The corporation shall, to the extent funds are
13 available, make loans to eligible students, as a lender of last
14 resort, under the following conditions:

15 (1) the borrower certifies and provides evidence to
16 the corporation that he/she has made an application to at least two
17 qualified lenders and was unable to obtain a guaranteed student
18 loan from a commercial lender and is not aware of any eligible
19 lender in this state that is willing to make a guaranteed student
20 loan;

21 (2) the borrower also certifies to the corporation
22 that he/she was unable to obtain a guaranteed student loan from the
23 Texas Higher Education Coordinating Board[~~7--Texas--College--and~~
24 ~~University-System~~];

25 (3) the corporation certifies that it is not aware of
26 any eligible lender in this state that is willing to make a
27 guaranteed student loan; and

1 (4) the corporation must, to the extent a market is
2 available, sell loans made as last resort loans within a reasonable
3 period of time of the date of loan origination. This provision
4 will not apply to any loans that cannot be sold at par. The
5 corporation shall maintain a separate file showing the name and
6 address of the student receiving such a loan and the name and
7 address of the involved educational institution.

8 SECTION 11. Section 57.43, Education Code, is amended to
9 read as follows:

10 Sec. 57.43. INSURANCE PREMIUMS. (a) The corporation may
11 impose and collect insurance premiums from student borrowers in an
12 amount not to exceed the maximum allowable under the Higher
13 Education Act of 1965, as amended.

14 (b) If the corporation imposes an insurance premium under
15 this section, the corporation must impose the lowest insurance
16 premium practicable that:

17 (1) complies with federal requirements; and

18 (2) does not jeopardize the corporation's financial
19 viability.

20 SECTION 12. Section 57.45(a), Education Code, is amended to
21 read as follows:

22 (a) In order to qualify as an eligible lender under this
23 subchapter, the lender must:

24 (1) be an eligible lender for purposes of the Higher
25 Education Act of 1965, as amended; and

26 (2) [~~have-its-principal-place-of--business--in--Texas,~~
27 and

1 [~~3~~] enter into an agreement with the corporation for
2 participation in the program.

3 SECTION 13. Chapter 57, Education Code, is amended by adding
4 Section 57.461 to read as follows:

5 Sec. 57.461. POSTSECONDARY EDUCATIONAL INSTITUTIONS AND
6 LENDER ADVISORY COMMITTEES. (a) The corporation shall establish:

7 (1) an advisory committee that is composed of 15
8 members who represent the postsecondary educational institutions
9 that participate in the corporation's guaranteed student loan
10 program; and

11 (2) an advisory committee that is composed of 12
12 members including:

13 (A) one member who represents the Texas Higher
14 Education Coordinating Board; and

15 (B) 11 members who represent lenders that
16 participate in the corporation's guaranteed student loan program.

17 (b) The board shall appoint advisory committee members on
18 the recommendation of the executive director.

19 (c) The board may establish other advisory committees as the
20 board considers necessary.

21 (d) The board shall:

22 (1) specify each advisory committee's purpose and
23 duties; and

24 (2) require each committee to report to the board in a
25 manner specified by the board relating to each committee's
26 activities and work results.

27 SECTION 14. Section 57.47, Education Code, is amended by

1 amending Subsection (a) and adding Subsection (d) to read as
2 follows:

3 (a) If a student borrower defaults on a loan and the
4 corporation is required to honor the guarantee, the corporation or
5 the Texas Higher Education Coordinating Board~~[7-Texas-College-and~~
6 ~~University-System]~~ shall bring suit against the defaulting party
7 as soon as practicable.

8 (d) Notwithstanding any other law, if the corporation or the
9 Texas Higher Education Coordinating Board brings suit against a
10 defaulting party under this section, the corporation or the
11 coordinating board, as appropriate, shall pay 50 percent of the
12 filing fee or other costs of court taxed and collected in advance
13 that are in effect on the date on which the suit is filed. If the
14 defaulting borrower prevails in the suit filed under this section,
15 the corporation or the coordinating board, as appropriate, shall
16 pay the remaining 50 percent of the statutory filing fee on the
17 date of the final disposition of the suit. If the corporation or
18 coordinating board prevails in the suit:

19 (1) the judgment shall find the defaulting borrower
20 liable to the corporation or the coordinating board, as
21 appropriate, for the amount of the filing fee; and

22 (2) the corporation or coordinating board, as
23 appropriate, shall pay the remaining 50 percent of the statutory
24 filing fee not later than one week after the date on which the
25 defaulting borrower pays to the corporation or coordinating board,
26 as appropriate, the full amount, including the filing fee, for
27 which the borrower is liable to the corporation or coordinating

1 board.

2 SECTION 15. Chapter 57, Education Code, is amended by adding
3 Section 57.481 to read as follows:

4 Sec. 57.481. LOAN DEFAULT PREVENTION AND REDUCTION. (a) In
5 this section, "loan default rate" means the rate at which student
6 borrowers default on loans guaranteed by the corporation as
7 determined by the corporation in compliance with federal
8 guidelines.

9 (b) The corporation shall take an active role in
10 coordinating, facilitating, and providing technical assistance on
11 guaranteed student loan default prevention and reduction
12 initiatives and programs in the state and shall work with the
13 appropriate state agencies and other entities, including eligible
14 postsecondary educational institutions, eligible lenders,
15 servicers, secondary markets, the Texas Higher Education
16 Coordinating Board, the Central Education Agency, and state
17 professional and occupational licensing agencies.

18 (c) The corporation shall maintain a system of communication
19 among the appropriate state agencies and entities to reduce loan
20 default claims.

21 (d) The corporation shall:

22 (1) calculate the loan default rates for the
23 postsecondary educational institutions that participate in the
24 corporation's guaranteed student loan program; and

25 (2) semiannually notify the postsecondary educational
26 institutions of those loan default rates.

27 (e) The corporation after consultation with eligible

institutions and lenders and consistent with federal regulations and policies shall establish a loan default rate for a postsecondary educational institution or lender that, if exceeded, requires the corporation to intervene as provided by Subsection (f) of this section or permits the corporation to intervene as provided by Subsection (g) of this section.

(f) If a postsecondary educational institution's loan default rate exceeds the rate established for the institution under Subsection (e) of this section, the corporation shall conduct program evaluations for the institution or provide technical assistance to the institution, or both.

(g) If a postsecondary educational institution's or lender's loan default rate exceeds the rate established under Subsection (e) of this section, the corporation may require the institution or lender, as a condition of eligibility to participate in the corporation's guaranteed student loan program, to take one or more actions, including to require:

(1) educational institutions to set tuition and fees refund policies for students who do not complete their course of study that:

(A) are more beneficial to students; and

(B) encourage repayment of student loans;

(2) lenders to disburse loans to students in more installments than required by federal guidelines, to the extent permitted by federal law and federal guidelines; or

(3) lenders to notify in clear language the affected postsecondary educational institutions and student borrowers if

1 student loans are assigned or transferred to another eligible
2 lender.

3 (h) Before the corporation may require a postsecondary
4 educational institution or lender to take any action under
5 Subsection (g) of this section, the proposed action must be
6 reviewed by the postsecondary educational institution or lender
7 advisory committee established under Section 57.461 of this code,
8 as appropriate.

9 SECTION 16. Chapter 57, Education Code, is amended by adding
10 Section 57.491 to read as follows:

11 Sec. 57.491. LOAN DEFAULT GROUND FOR NONRENEWAL OF
12 PROFESSIONAL OR OCCUPATIONAL LICENSE. (a) In this section:

13 (1) "License" means a certificate or similar form of
14 permission issued or renewed by a licensing agency and required by
15 law to engage in a profession or occupation.

16 (2) "Licensee" means a person to whom a licensing
17 agency issues a license.

18 (3) "Licensing agency" means a board, commission,
19 department, or other agency in the executive branch of state
20 government that issues or renews a licensé.

21 (b) The corporation shall identify the licensing agencies
22 subject to this section and provide written notice to those
23 agencies of the requirements prescribed by this section. Only
24 those licensing agencies that the corporation identifies and that
25 receive such notice are required to carry out this section.

26 (c) The corporation periodically shall:

27 (1) identify the persons who are in default on loans

1 guaranteed by the corporation; and

2 (2) provide a written list of the names of those
3 persons to the licensing agencies.

4 (d) A person who is in default on a loan may enter an
5 agreement with the corporation for repayment of a defaulted loan as
6 required under this section. The corporation shall provide the
7 person with a certificate certifying that the person has entered a
8 repayment agreement on the defaulted loan.

9 (e) A licensing agency shall not renew the license of a
10 licensee whose name is on the list provided by the corporation
11 under Subsection (c) of this section unless:

12 (1) the renewal is the first renewal following the
13 agency's receipt of the list including the licensee's name among
14 those in default; or

15 (2) the licensee presents to the agency a certificate
16 issued by the corporation certifying that:

17 (A) the licensee has entered a repayment
18 agreement on the defaulted loan; or

19 (B) the licensee is not in default on a loan
20 guaranteed by the corporation.

21 (f) A licensing agency may issue an initial license to a
22 person whose name is on the list provided by the corporation under
23 Subsection (c) of this section and who meets all other
24 qualifications for licensure, but shall not renew the license
25 unless the person presents to the agency a certificate issued by
26 the corporation certifying that:

27 (1) the licensee has entered a repayment agreement on

1 the defaulted loan; or

2 (2) the licensee is not in default on a loan
3 guaranteed by the corporation.

4 (g) A licensing agency shall not renew the license of a
5 licensee who defaults on a repayment agreement unless the person
6 presents to the agency a certificate issued by the corporation
7 certifying that:

8 (1) the licensee has entered another repayment
9 agreement on the defaulted loan; or

10 (2) the licensee is not in default on a loan
11 guaranteed by the corporation or on a repayment agreement.

12 (h) A licensing agency shall provide written notice of the
13 nonrenewal policies established under Subsections (e), (f), and (g)
14 of this section to each applicant for a license or for renewal of a
15 license. The corporation shall provide written notice of those
16 same policies on each loan application form provided by the
17 corporation and on each promissory note signed by a borrower.
18 Failure to provide the notice required by this subsection does not
19 affect the default status of a borrower or the prohibitions on
20 renewal of a license held by a person in default.

21 (i) A licensing agency shall provide an opportunity for a
22 hearing to a licensee before the agency takes action concerning the
23 nonrenewal of a license under this section.

24 (j) Each licensing agency shall adopt any rules necessary to
25 carry out the licensing agency's duties under this section.

26 (k) The board shall establish procedures to carry out the
27 corporation's duties under this section.

1 (1) This section does not apply to the State Securities
2 Board.

3 SECTION 17. Section 57.50, Education Code, is amended to
4 read as follows:

5 Sec. 57.50. NONDISCRIMINATION. Neither the corporation nor
6 an eligible lender may discriminate against an eligible student in
7 making a loan or loan guarantee on the basis of race, age,
8 religion, [~~income~~] or sex.

9 SECTION 18. Section 57.76, Education Code, is amended to
10 read as follows:

11 Sec. 57.76. ANNUAL AUDIT. (a) At least once each year the
12 corporation shall have a fiscal audit performed by a certified
13 public accountant.

14 (b) A copy of the annual audit shall be submitted to the
15 state auditor for review. The state auditor may:

16 (1) examine any working papers from the annual audit;
17 and

18 (2) conduct a separate audit if, after reviewing the
19 independent audit, the state auditor considers a separate audit
20 necessary.

21 SECTION 19. Chapter 57, Education Code, is amended by adding
22 Section 57.761 to read as follows:

23 Sec. 57.761. INTERNAL AUDITOR. (a) The executive director
24 shall appoint an internal auditor for the corporation. The
25 appointment of an internal auditor must be approved by the board.

26 (b) The internal auditor shall report to the executive
27 director. The board may require the internal auditor to submit

1 directly to the board certain reports specified by the board.

2 (c) The board's executive committee, a subcommittee of the
3 board, shall meet with the internal auditor on a regular basis.

4 (d) The internal auditor shall examine the corporation's
5 system of internal controls and its system of identifying fixed and
6 variable costs, including administrative costs.

7 SECTION 20. Section 82.022, Government Code, is amended by
8 adding Subsection (c) to read as follows:

9 (c) The supreme court may adopt rules relating to the
10 nonrenewal of the license of a lawyer who is in default on a loan
11 guaranteed under Chapter 57, Education Code, by the Texas
12 Guaranteed Student Loan Corporation.

13 SECTION 21. Sections 57.21 and 57.51, Education Code, are
14 repealed.

15 SECTION 22. (a) A member of the board of the Texas
16 Guaranteed Student Loan Corporation appointed by the governor or by
17 the commissioner of higher education and serving on the board on
18 the effective date of this Act serves until the member vacates the
19 office or until the member's term expires. As vacancies occur or
20 board members' terms expire, the governor shall appoint new members
21 to achieve the membership scheme prescribed by Section 57.13(b),
22 Education Code, as amended by this Act. To fill the new membership
23 position created on the board by this Act's amendment of Section
24 57.13(b), the governor shall appoint the full-time student member
25 of the board for a term expiring January 31, 1993. The position on
26 the board filled through appointment by the chairman of the Texas
27 Higher Education Coordinating Board is abolished on the effective

1 date of this Act.

2 (b) The first policy statement required to be filed under
3 Section 57.19, Education Code, as amended by this Act, must be
4 filed before November 1, 1989.

5 (c) A state agency that issues professional or occupational
6 licenses may not:

7 (1) take action concerning the nonrenewal of a license
8 before September 1, 1991, under Section 57.491, Education Code, as
9 added by this Act; or

10 (2) issue notice as provided by Section 57.491(h),
11 Education Code, as added by this Act, before September 1, 1990, to
12 persons who apply for a license.

13 SECTION 23. This Act takes effect September 1, 1989.

14 SECTION 24. The importance of this legislation and the
15 crowded condition of the calendars in both houses create an
16 emergency and an imperative public necessity that the
17 constitutional rule requiring bills to be read on three several
18 days in each house be suspended, and this rule is hereby suspended.

H.B. No. 715

President of the Senate

Speaker of the House

I certify that H.B. No. 715 was passed by the House on May 9, 1989, by a non-record vote; and that the House concurred in Senate amendments to H.B. No. 715 on May 24, 1989, by a non-record vote.

Chief Clerk of the House

I certify that H.B. No. 715 was passed by the Senate, with amendments, on May 22, 1989, by a viva-voce vote.

Secretary of the Senate

APPROVED: _____

Date

Governor

President of the Senate

Speaker of the House

I certify that H.B. No. 715[✓] was passed by the House on
(1)

May 9[✓]
(2)

, 1989, by a non-record vote;

and that the House concurred in Senate amendments to H.B. No. 715[✓]

on May 24[✓], 1989, by a non-record vote.
(3)

Chief Clerk of the House

**** Preparation: 'A;CT64;

I certify that H.B. No. 715[✓] was passed by the Senate, with
(1)

amendments, on May 22[✓], 1989, by a
(2)

✓
viva-voce vote.

Secretary of the Senate

APPROVED:

Date

Governor

**** Preparation: 'A;CT15;

H. B. No.

715

By

L. G. Guerrero

A BILL TO BE ENTITLED

AN ACT

relating to the composition of the board and to the continuation and functions of the Texas Guaranteed Student Loan Corporation.

JAN 27 1989

1. Filed with the Chief Clerk.

FEB 20 1989

2. Read first time and Referred to Committee on

Government Organization

APR 18 1989

3. Reported favorably (as amended) (as substituted) and sent to Printer at 7:40 pm APR 25 1989

APR 26 1989

4. Printed and distributed at 1:40 pm

APR 28 1989

5. Sent to Committee on Calendars at 8:44 am

MAY 8 1989

6. Read second time (as amended) (as substituted) passed to third reading (failed) by (Non-Record Vote) (Record Vote of years, nays, present, not voting).

7. Motion to reconsider and table the vote by which H.B. was ordered engrossed prevailed (failed) by a (Non-Record Vote) (Record Vote of years, nays, and present, not voting).

8. Constitutional Rule requiring bills to be read on three several days suspended (failed to suspend) by a four-fifths vote of years, nays, and present, not voting.

MAY 9 1989

9. Read third time (amended); finally passed (failed) by (Non-Record Vote) (Record Vote of years, nays, present, not voting).

10. Caption ordered amended to conform to body of bill.

11. Motion to reconsider and table the vote by which H. B. was finally passed prevailed (failed) by a (Non-Record Vote) (Record Vote of years, nays, and present, not voting).

MAY 9 1989

12. Ordered Engrossed at 10:32 am

MAY 9 1989

13. Engrossed.

MAY 9 1989

14. Returned to Chief Clerk at 2:45 pm

MAY 10 1989

15. Sent to Senate.

Betty Murray
Chief Clerk of the House

MAY 10 1989

16. Received from the House

MAY 11 1989

17. Read, referred to Committee on EDUCATION

18. Reported favorably

MAY 19 1989

19. Reported adversely, with favorable Committee Substitute; Committee Substitute read first time.

20. Ordered not printed.

MAY 22 1989

21. Regular order of business suspended by unanimous consent (a viva voce vote.) (years, nays.)

89 MAY 22 PM 8: 01

HOUSE OF REPRESENTATIVES

89 MAY -9 PM 2: 00

HOUSE OF REPRESENTATIVES

22. To permit consideration, reading and passage, Senate and Constitutional Rules suspended by vote of _____ yeas, _____ nays.

'MAY 22 1989

23. Read second time amended passed to third reading by:
(a viva voce vote.)
_____ yeas, _____ nays.)

'MAY 22 1989

24. Caption ordered amended to conform to body of bill.

MAY 22 1989

25. Senate and Constitutional 3-Day Rules suspended by vote of 30 yeas,
1 nays to place bill on third reading and final passage.

MAY 22 1989

26. Read third time and passed by
(a viva voce vote.)
_____ yeas, _____ nays.)

OTHER ACTION:

OTHER ACTION:

Betty King
Secretary of the Senate

May 22, 1989

27. Returned to the House.

'MAY 22 1989

28. Received from the Senate (with amendments, /
(as substituted.)

MAY 24 1989

29. House (Concurred) (~~Refused to Concur~~) in Senate (Amendments) (Substitute) by (Non-Record
Vote) (Record Vote of _____ yeas, _____ nays, _____ present, _____
not voting).

30. Conference Committee Ordered.

31. Conference Committee Report Adopted (Rejected) by a (Non-Record Vote) (Record
Vote of _____ yeas, _____ nays, and _____ present, not voting).

MAY 24 1989

32. Ordered Enrolled at 6:56 pm

89 MAY -9 PM 8: 01
HOUSE OF REPRESENTATIVES

89 MAY -9 PM 2: 00
HOUSE OF REPRESENTATIVES

89 APR 26 PM 1: 40

516